



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/10465/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 15th March 2017**

**Decision and Reasons
Promulgated
On 3rd May 2017**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL FARRELLY

Between

**MR.KAA
(ANONYMITY DIRECTION MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J.Dhanji, Counsel, instructed by Duncan Lewis
and Co, Solicitors
For the Respondent: Mr Parminder Singh, Presenting Officer.

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

DECISION AND REASONS

Introduction

1. The background to this appeal is set out in the Decision and Reasons in the error of law hearing of 24 January 2017. The parties are referred to this for details.
2. The First-tier judge had accepted the underlying claim of events leading to the appellant's departure from Afghanistan. However, a country expert report had been submitted and the judge concluded that the appellant could safely live in parts of Kabul. The refusal letter and the parties had focused on the index event. The decision was set aside in fairness to the appellant to give him an opportunity to address the issue of his safety in Kabul as per the Directions issued. The practicalities of re-establishing himself and the possibility of renting property in a safe area are to be considered.
3. At the resumed hearing the appellant's representative produce an addendum from the country expert. Maps of Kabul show neighbourhoods and areas of relative safety. There is a further statement from the appellant. There is also a statement from a member of staff of his legal representatives who contacted his father in Kabul by telephone. I also received statements from the New Kabul Bank running from January 2010 to November 2016 in relation to the appellant's father.
4. The appellant's evidence was that his parents live in Kabul as do his five married sisters. Another married sister lives in Ghazni. The appellant said he came to the United Kingdom in August 2010 in order to study. He was allowed to work part-time up until 2015 in order to defray the costs. His father had met his living expenses. However, he claimed his family had fallen on hard times and support from home stopped in 2016. His father is retired and no longer has property but lives in rented accommodation. His parents are now supported by remittances sent from his brother in Canada. His father has savings of around US\$2000. He is owed between US\$4000 and US\$5000 by others. The appellant's brother has been granted refugee status in Canada but is not in a position to help as he has his own family to support. He sends money when he can to their parents. He said the family home is located about 80 km from Kabul and was let but the rent has not been paid. He said it would not be culturally acceptable for him to live with his married sisters.
5. In submissions, the presenting officer contended that the appellant had sought to underplay the family circumstances as this was in his interest. The lack of activity in the bank statements submitted was highlighted and it was pointed out they did not show remittances from Canada. When the appellant was applying for his student visa he was portrayed as coming from a wealthy family. His father was a

property developer. Not only were his studies financed but he was able to travel backwards and forwards to Afghanistan. It was submitted that he could possibly live with his parents or rent. His brother in Canada and his sisters in Afghanistan could help him financially with the transition. He is educated to degree level. The presenting officer was sceptical of the claim that a friend would let him live for so long rent-free. He referred to the lack of supportive evidence of this and questioned how the appellant managed financially at the moment.

6. In response, his representative refers to the high cost of accommodation in the safer parts of Kabul. He submitted it would not be safe for the appellant to live with his parents, given the history of threatening letters delivered there and that the Taliban maintained an intelligence network. He pointed out the appellant's account of events before he left had been found credible. Consistent with this, his claim about limited finance was likely to be true.

Consideration.

7. The immigration history supports the view he came from a wealthy family. In order to obtain his student visas he would need to demonstrate financial viability. He would need to fund the tuition fees, maintain and accommodate himself. The fact he was in a position to apply for a degree course is indicative that he is not from a very poor family. He did not claim that the family circumstances were poor initially. Rather, his father was a successful property developer. However, he now claims the family fortunes have significantly worsened due to his father's age and the downturn in the economy.
8. The original application for a student visa, valid for one year, was made in July 2010. Thereafter, there were repeated successful applications, the last of which was in July 2015. He had sufficient funds to return to Afghanistan the following year. When those further applications were made he would have needed to demonstrate financial viability. The statement of additional grounds dated March 2016 para 4 describe him as coming from an educated and affluent family.
9. His brother, MH, was born in June 1972. He held various appointments from 2003 with the United Nations until he left Afghanistan following the January 2016 index incident. There is a document in the papers entitled 'employment verification' stating he was employed in Afghanistan as a contractor for the provision of services. His total salary per month was almost US\$2000.
10. The bank statements produced relate to one account in the name of his father opened in November 2010. It was at its highest in April 2011 showing a balance of US\$31,618. The transactions would indicate money transfers from his brother into that account in

November 2010 of US\$1250; in December 2010, \$1000; in February 2011, \$900 and \$31, 000; and in March 2011, US\$8500. The account has been inactive since July 2012, with a balance thereafter of under US\$2000.

11. The country guidance decision on Afghanistan, AK (Article 15(c)) Afghanistan CG [2012] UKUT 00163 (IAC) held that the level of indiscriminate violence was not at such a high level as to mean that a civilian, solely by being present in the country, faces a real risk. In assessing a claim in the context of Article 15(c) in Kabul city , it said it was necessary to take into account not only the level of violence in the city but the difficulties experienced by that city's poor and the many internally displaced persons (IDPs) living there. However, the guidance was that those considerations would not in general make return to Kabul unsafe or unreasonable.
12. Dr Giustozzi, who has provided an expert report in the present appeal, gave evidence in the country guidance case. At para 176 of the decision, the Upper Tribunal commenting on the report from Dr Giustozzi said :

It would also have assisted if his treatment of likely accommodation problems facing returnees to Kabul had not assumed that for a single man such as the appellant there would not be the option of sharing a flat or rooms or quarters.
13. The addendum report from Dr Giustozzi for this appeal is dated January 2017. He states that the districts of Shar-e Naw and Taimani is where most rental property is. He states there area is populated by the upper middle-class and is ethnically mixed. He stated an individual would need US\$350-US\$400 monthly to rent a place. He sets out the rents in the different districts in a numbered table at the back of his report. The \$350 -400 referred to appears from the table to relate to Taimani and Carte Parwan, as the table records that rents for Sher e Naw are \$1000 per month. He also states that the average salary is US\$170 per month. He states that the area is composed of family houses rather than single accommodation. Again, he makes no reference to the possibility of sharing costs with others.
14. I have been provided with an article from the United Nations Assistance Mission dated October 2016 in relation to Kabul. The statistics for the first three quarters of 2016 showed continuing high numbers of civilian casualties albeit the figures are down from the previous year.
15. I have been provided was a statement from a solicitor in the firm representing the appellant. It relays the contents of a conversation with the appellant's father. His father said he was in rented accommodation in the Kote Sange district. The expert dos not comment on this district .His father complains of having poor health

and goes to Pakistan every four-month for medical treatment. He refers to six-month treatment costing approximately US\$300-US\$400. It is not clear if he means this is the cost of medication. He said his son in Canada sends him \$100-\$200 intermittently.

16. In the appellant's statement on the family finances he acknowledges that when he applied for entry clearance in 2010 he submitted bank statements showing US\$18,000. He said the money had been given to him by his father. He said his father is now in parlous circumstances, and he has lost money due to falling house prices. He said this should mean rentals should be cheaper but they remain higher than the average earnings. He states that he has an accent which would put him in danger in certain parts of Kabul. He refers to safe areas where the rents are US\$350 per month but he said he could not afford this.

Conclusions.

17. I appreciate it can be difficult to prove a negative, namely, that the appellant would not have adequate resources. However, the limited information I have been given makes my task difficult. I find force in the presenting officer's point that it is in the appellant's interest to portray himself as in dire straits. He states his father circumstances have changed. The bank account he presented as his father's only bank account in fact shows no recent transactions. On the basis that the average income in Afghanistan is \$170 per month his ability to have US\$18,000 and to travel to the United Kingdom to study indicates the comparative wealth of his family. I find no satisfactory explanation has been given for their family's sudden turn in fortunes. He was able to travel back to Afghanistan as recently as January 2016.
18. I do not attach weight to the statement from the appellant and that relayed from his father as they are self-serving and unsupported. Had I been provided with an active bank account showing remittances from Canada then I would have been better placed to make an assessment.
19. The appellant's brother is in Canada. He was in a very well paid job in Afghanistan. No information has been provided about his economic circumstances in Canada beyond a bald statement. No details about the remittances have been provided. A rent of US \$350 per month may be a lot for a worker in Afghanistan but by standards in Canada is not so great. No adequate explanation has been demonstrated as to why his brother, who has been granted refugee status in Canada, could not help defray these costs.
20. The appellant has six sisters in Afghanistan, five of whom are in Kabul. He said it would not be socially acceptable for him to live with them. He is not convincingly explained why they could not financially help him.

21. The background information suggests the Taliban do target workers who provide help with government institutions. The appellant however was only targeted indirectly because of his brother. It has not been suggested there are no safe areas in Kabul for the appellant. This was referred to at paragraphs 46 and 47 of the First-tier tribunal decision and the report from the expert. The issue has been the cost.
22. The skeleton argument on behalf of the appellant addresses the question of sufficiency of protection and submits that the fact the Taliban fled when a police patrol appeared does not mean they would be sufficient protection for the appellant. Although reference is made to country information about police corruption and so forth I am influenced by the country expert report provided which does indicate there are areas of Kabul which could be safe for the appellant.
23. The expectation is that the appellant could become self-sufficient by obtaining employment. He is educated to degree level. No health issues have been identified. The transition can be cushioned by help from his family members and any resettlement payment.
24. I am not satisfied that the appellant has given a true account of the family finances. He has claimed neither his parents nor his brother and six sisters can help. I am not satisfied this is so. In particular, I was not impressed by the submission of an inactive bank statement which appears to have been opened to support of his original visa application. My conclusion is that there are areas of Kabul where he could reasonably relocate and live in safety. Having set the original decision aside so that this can be considered I remake it, dismissing the appeal.

Decision

The appeal is dismissed under the Refugee Convention.
The appeal is dismissed on human rights grounds.
The appeal is dismissed on humanitarian grounds.
The appeal is dismissed under the Immigration rules.

An anonymity direction is made.

Signed FJFarrelly

Date 26th April 2017.

