



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03165/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 6 December 2017**

**Decision & Reasons
Promulgated
On 6 February 2018**

Before

Deputy Upper Tribunal Judge MANUELL

Between

[M A]

~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Gayle, Solicitor (Elder Rahimi)

For the Respondent: Mr S Kandola, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Doyle on 18 September 2017 against the determination of First-tier Tribunal Judge O'Garro who had dismissed the appeal of the Appellant against the refusal of his international protection claim to which an Article 8 ECHR claim was appended. The decision and reasons was promulgated on 31 May 2017.
2. The Appellant is a national of Cote d'Ivoire, born on [] 1966. He had entered the United Kingdom as a visitor on 25 September 2002, overstayed and had done nothing to regularise his stay until 15 April 2015 when he applied for leave to remain on the basis of his family and private life. That application was rejected on 3 June 2015. The Appellant made a similar application on 17 February 2016, which was refused with an out of country right of appeal only. On 16 September 2016 the Appellant claimed asylum on the basis of his political opinion. He asserted that he was an active member of the FPI in Cote d'Ivoire, had fled in fear and had joined the London branch. His father had been beaten up in 2015 by people seeking the Appellant. The Appellant's name was on a wanted list.
3. Judge O'Garro found that the Appellant had failed to prove that he had any political profile in Cote d'Ivoire nor had he been threatened. No part of his claim as to events in Cote d'Ivoire was credible. The Appellant's delay in claiming asylum further detracted from his credibility. The judge accepted that there was evidence that showed that the Appellant had joined the FPI in London, but found that the Ivorian authorities would have no means of knowing of his activities which were minimal in any event. Nor was the Appellant subject to any real risk on return because he had no significant political profile.
4. Permission to appeal was granted because it was held arguable that the judge had not assessed the Appellant's credibility adequately, in her approach to the documents and otherwise.

5. Standard directions were made by the tribunal. A rule 24 notice in letter form dated 31 October 2017 opposing the appeal was filed by the Respondent.

Submissions

6. Mr Gayle for the Appellant relied on the grounds of onwards appeal and grant. In summary, he submitted that the judge had failed to provide a properly reasoned decision. The analysis of the country background evidence was flawed. The judge had failed to show that she understood who was at risk. There was evidence of the Appellant's activities *sur place*. The authorities were likely to be interested in the Appellant. The Appellant would be likely to have to declare his political opinion and allegiance and hence was at risk. The determination should be set aside and remade in the First-tier Tribunal.
7. Mr Kandola for the Respondent relied on the rule 24 notice and submitted that there was plainly no material error of law. The judge had examined the evidence and had found that the majority of the Appellant's claims were not credible. The delay in the claim was very significant. The Appellant had been found not at risk in 2002 when he left Cote d'Ivoire. He had since been in the United Kingdom for 14 years. Any profile he had developed *sur place* was insufficient to place him at risk, as the judge had been entitled to find. The onwards appeal should be dismissed.
8. In reply, Mr Gayle submitted that background evidence showed that there were problems for FPI members and the judge had not addressed that adequately.

No material error of law finding

9. In the tribunal's view, the grant of permission to appeal was excessively generous, and failed to place the Appellant's claim into its proper context of enormous delay. As noted by Judge O'Garro, the Appellant had claimed to have been at risk from 2002 onwards, certainly at the point he left Cote d'Ivoire. Yet it was made only after the Appellant's belated other steps to obtain leave to remain had failed. The protection claim can properly be described as abusive.

10. The experienced judge examined the whole of the evidence with appropriate care, in the round, and gave multi-faceted reasons for finding that the Appellant's evidence was largely not credible, having studied the current country background materials. Given the lack of substance to the Appellant's story, placing weight on the alleged list of pro-Gbagbo sympathisers liable to detention (see Home Office bundle, H3) he produced would have been difficult to justify. It had no connection to the Appellant. The only evidence which the judge accepted was that of local party membership which had been corroborated by a United Kingdom witness, i.e., local corroboration which was safely available and was provided. There was no satisfactory evidence that a very poor country such as Cote d'Ivoire has the resources to monitor its nationals' activities abroad. The Appellant failed to prove otherwise, as the judge found. There was no reason to accept the other limited assertions about him made by the local witnesses, since if true they could and should have been made long ago.
11. Mr Gayle's submissions, like the onwards grounds, amount to no more than disagreement with the judge's decision. The tribunal finds that the onwards appeal has no substance and that there was no material error of law in the decision challenged.

DECISION

The appeal is dismissed

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged.

Signed
2018

Dated 2 February

Deputy Upper Tribunal Judge Manuell