



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05445/2017

THE IMMIGRATION ACTS

Listed at Glasgow
On 4th October 2018

Decision & Reasons Promulgated
On 29th October 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

MRS S N
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Aslam, McGlashan MacKay Solicitors
For the respondent: Mr Mathews, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant has been granted permission to appeal to the Upper Tribunal the decision of First-tier Tribunal Judge S Gillespie.

2. The appellant is a national of the Islamic Republic of Iran who made a claim for protection on arrival at Glasgow airport in December 2016. She claimed she would be at risk if returned because she had been discovered in an adulterous relationship. The respondent did not find that the claim engaged the Refugee Convention and, in any event, did not accept it was true.
3. The day before the hearing the respondent presented the appellant's representatives with a Home Office minute prepared by an immigration officer who had interviewed the appellant on arrival. The date of birth given is that of her sister. There was also a landing card completed in the name of a Mr MF. It is believed that he travelled to Iran with her sister's travel documents given to her and that they travelled back together.
4. The appellant's sister gave evidence before the judge indicating she had been granted refugee status in May 2015 and issued with a UK travel document which she claimed to have lost a month or so before the original hearing. She denied allowing her sister to use this document and said they knew Mr MF. She said she was unaware her sister was travelling to the United Kingdom.
5. The judge concluded that the appellant and her sister sought to mislead the authorities as to how the appellant entered the United Kingdom. The judge found she had used her sister's travel document to enter the United Kingdom and had falsely claimed to have been accompanied by an agent. The judge did not believe their claims not to know Mr MF or that her sister had lost her travel document.
6. The appellant claimed that since being in the United Kingdom she had learnt a summons was issued. The judge concluded that the arrest warrant could be afforded little weight in light of her dishonesty about travel.
7. First-tier Judge Gillespie did not accept her underlying account. The judge did not accept she would have conducted an adulterous relationship the open way she described, particularly in light of the claim she suspected her husband had associations with the Iranian security services.
8. Permission was granted on the basis the judge gave undue weight to the minute and did not make adequate allowance for linguistic issues. It was also arguable that the judge allowed his views to be coloured by the method of entry and did not properly evaluate the underlying claim.

The Upper Tribunal

9. Mr Aslam referred me to the grounds upon which permission had been granted. He argued that the judge did not adequately consider the reliability of the memorandum. The appellant had only arrived at Glasgow airport on a flight from Amsterdam when she was questioned in English. She claimed that the minute and screening do not properly reflect the situation and she attributed this to the limited command of English.
10. Mr Aslam, who appeared below, said that he had asked for an adjournment on the day of the hearing so that he could take instructions on the matter. He said that he might have requested any notes or recording in relation to the minute. I have checked the record of proceedings. The record is legible and neatly set out events at the hearing. I cannot find any reference to adjournment application beyond the short break referred to. Mr Winters did not have any note of this on file and he had not appeared below.
11. In the decision the judge recorded the presenting officer submitting that no unfairness arose in admitting the document. At paragraph 9 the judge records that paragraph 47 of the refusal letter refers to Home Office records indicating that when she 1st arrived she claimed to have travelled using her sisters travel document. Furthermore, at screening she was asked if she had used any other names and she said she had used her sister's name. First-tier Judge Gillespie therefore concluded she had noticed that this was an issue.
12. The judge recorded he was admitting the document but allowing 20 minutes for consideration. He noted that Mr Aslam made no objection. I asked Mr Aslam if in referring to an adjournment he meant being allowed time but he indicated this was not the situation. I cannot take this issue any further than I have set out. Mutual misunderstandings can occur but I do find it odd that the judge would record Mr Aslam had no objection if he had requested an adjournment and there is no record of this in the handwritten note. It is good practice to set out events that occur in the course of the hearing.
13. The admissibility of and the weight to attach to the memorandum was a matter for the judge. Mr Winters has not indicated that there was any recording taken when the memorandum was produced and believed it was a contemporaneous note which was then typed. In the circumstance I do not find it established that there was any procedural unfairness.

14. At paragraph 56 the judge said he did not find it credible that the appellant did not know her sister was in Glasgow. Mr Aslam submitted that he failed to give adequate reasons for this conclusion and that amounted to no more than an assertion.
15. I have seen the minute that was before the judge and the landing card relating to a Mr MF. Times are inserted, starting from 1045 through to 1300. There is a reference to the appellant being given food and then screened. At the bottom of the minute sheet it is recorded that subsequent checks revealed that she travelled using the name [M] and started her journey in Tbilisi, Georgia. The memoranda records that a further interview was carried out when she stated the document used to travel belonged to her sister and is a UK travel document. It is recorded that the document was taken to Teheran by Mr. MF. Over the page the travel document number and the date of birth correspond to her sister. The landing card relates to Mr MF, described as Iranian student living in Glasgow. The screening interview took place later that day in English. At section 1.3 the appellant was asked if she ever used any other names and gave the name of her sister. At 3.4 she was asked if she has any family in the UK and her response was 'I don't know - I had family in London before but don't know if they are there.'
16. In the papers before the judge was her substantive interview in April 2017. An interpreter was used. She indicated that she was living with her sister in Scotland. Her sister had been granted the right to remain. At question 102 she claimed she travelled on false documents arranged by an agent. At question 118 she was asked if she knew she was going to her sister. She said she was told this by the agent in Amsterdam. Her legal representative subsequently made amendments based on their instructions but none were material to this issue.
17. The judge records at paragraph 34 the cross-examination of the appellant about her screening and her sister. In her oral evidence she denied saying she had used her sister's name and claimed she thought she was being asked if she had anybody in the United Kingdom. Paragraph 40 records her being questioned about Mr MF and she denied knowing him. She suggested the immigration officer had misunderstood the situation in making the minute and screening.
18. The judge heard from the appellant's sister, noting she had been granted refugee status 6 months before the appellant arrived. She had been issued with a travel document which she said she had lost several months after her sister arrived.

19. At paragraph 51 the judge concluded the appellant and her sister had not told the truth about how the appellant entered the United Kingdom. The judge did not find her claim in relation to the Home Office minute to be credible and the judge accepted the note made by immigration officials. The judge concluded that she gained entry using the travel document there had been issued to her sister and that they both were of similar appearance and age. At paragraph 53 the judge records that the immigration officer was able to establish that she had flown from Tbilisi in her sister's name. The judge also rejected the claim that she did not know Mr MF. The judge referred to the appellant sister's birthdate being recorded on the minute as well as the correct number for her travel document.
20. When all these matters are taken into account it is clear the judge carefully evaluated the evidence of the immigration officer's note and the appellant's account. The judge had also heard from the appellant and her sister about their awareness of each other. Consequently, it was not a bare assertion by the judge at paragraph 56 that he did not find it credible she did not know her sister with due to arrive in Glasgow. Rather, it is based upon an evaluation of the evidence set out. The judge rejected the appellant's claim that the reference to using her sister's name was a mistake in interpretation. The reasons given at paragraph 57 are more than adequate.
21. It is also contended by Mr Aslam that the judge did not adequately evaluate the underlying claim. He makes the point that asylum seekers may enter the country by any means possible and that does not detract from the truth of their underlying claim. This is only partially correct. For instance, a person may claim they left in great haste in fear of their life and yet investigations may reveal significant preparations over time for the departure which call into question the underlying claim.
22. The judge found the appellant had been dishonest about how she came into the United Kingdom. Regarding the appellant's entry the judge had solid evidence upon which to conclude she was being untruthful. It was much more difficult to test her underlying claim. It does not necessarily follow that her being untruthful about the means of entry meant the underlying claim was untrue. The evidence about her entry did reflect on her general honesty. However, the judge did not simply adopt this as a reason for rejecting her.
23. The decision has to be read as a whole. The judge set out accurately at paragraph 18 onwards her claim. The evidence at hearing is recorded. The judge records his questioning of her about the use of her mobile telephone, which apparently contained compromising material. The judge refers at paragraph 33 to the claim that her husband had friends

in the Iranian security service. At paragraph 44 onwards the judge summarises country information about the penalties for a woman committing adultery in Iran. At paragraph 50 he reflects on the gravity of the situation and balances this with the claims made. At paragraph 59 the judge makes the point that if her husband had associations with the security services she would not have conducted a relationship in the way she claimed given the risks. These were all legitimate comments.

Conclusions

24. I do not find any material error of law established. Rather the decision indicates the judge carefully considered the issues arising and evaluated the evidence. He reached reaching conclusions that were open to him.

Decision

No material error of law has been established in the decision of First-tier Tribunal Judge Gillespie. Consequently, that decision dismissing the appellant's appeal shall stand

Francis J Farrelly ..

Deputy Upper Tribunal

Date 21st October 2018