



**Upper Tier Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/06428/2018

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 17<sup>th</sup> October 2018**

**Decision Promulgated  
On 23<sup>rd</sup> October 2018**

**Before**

**Deputy Upper Tribunal Judge Pickup**

**Between**

**AY  
[Anonymity direction made]**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the appellant: Ms M Patel, instructed by Lei Dat & Baig Solicitors

For the respondent: Mr C Bates, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Malik promulgated 2.7.18, dismissing on all grounds his appeal against the decision of the Secretary of State, dated 2.5.18, to refuse his claim for international protection.
2. First-tier Tribunal Judge Adio granted permission to appeal on 7.8.18.

*Error of Law*

3. For the reasons set out below, I found no material error of law in the making of the decision of the First-tier Tribunal such as to require it to be set aside.
4. The judge found the core factual basis of the appellant's case to have been fabricated and that he was and is not of any adverse interest to the Houthi, their supporters, or to the Yemeni authorities. That finding has not been appealed.
5. The grounds centre on the Article 15(c) risk of indiscriminate violence and the judge's finding that the appellant can return or relocate to Aden in the south of Yemen.
6. In granting permission to appeal, Judge Adio found it arguable that the judge had failed to consider all the relevant background evidence in deciding that it was reasonable to expect the appellant to relocate to Aden.
7. The crucial findings in this regard are at [26] of the decision. It is clear that the judge has considered the Home Office CPIN and noted at the outset that the respondent accepted that in many cases relocation to Aden, which is considered to be relatively safe, will not be feasible.
8. The general situation within Yemen is of an internal armed conflict between the UAE-backed Houthi occupying the north of the country and the alliance of Southern-separatists and the internationally recognised government, backed by Saudi Arabia. The situation has been somewhat fluid.
9. There has been no appeal against the judge's findings that the appellant was born in Aden, lived there from birth in 1963 to 1970 and returned to live there again between 1980 and 1985. He also undertook his military service there. The judge also rejected the claim that the appellant's family are in Taiz and found no reason why they could not join him in Aden, if they are not already there. It was also open to the judge to find that the appellant's brother is in Aden, which has not been appealed. The judge found that the appellant was not a vulnerable individual but a healthy, well-educated man who has worked both in Yemen and Bulgaria and has a wife, four children and seven siblings in Yemen to whom he could return to. In the circumstances, the judge concluded that it would not be unreasonable or unduly harsh to expect him to relocate to Aden on return.
10. This conclusion was based on the judge's finding at [26] that Aden remains under the control of the Saudi-backed government, which was the position of the respondent stated at [44] of the refusal decision and cited by the judge at [26] of the tribunal's decision.
11. The grounds complain that the judge failed to consider the country background information in the appellant's supplementary bundle, namely reports from the Guardian newspaper and the BBC that in January 2018

Yemeni separatists surrounded the Presidential Palace with government senior figures inside. However, this information in two news reports was in my view inadequate to justify the judge departing from the Home Office country background information. They presented a 'snap-shot' of events at one particular time some 6 months prior to the appeal hearing and no evidence was presented to show that by reason of the events described this appellant would be at risk or that the situation had not been resolved. Such news reports are in reality poor evidence that there was an article 15(c) risk. As Mr Bates also pointed out in his submissions, the actions arose from a dispute in the alliance between the Southern-separatists and the Saudi-backed official government and targeted government figures. There was nothing to suggest that civilians in Aden were targeted or at risk of indiscriminate violence. I ignore for this purpose Mr Bates attempt to give evidence that the dispute described in the two reports was resolved within 48 hours.

12. Another report relied on from 2016 claimed that northern Yemenis were being deported from Aden in a form of ethnic cleansing. However, I am not satisfied that on the unchallenged findings of the tribunal that this has any relevance to the appellant, whom the judge concluded was from Aden, even if he had lived elsewhere including Sanaa.
13. It is also complained that the judge failed to consider 2.3.15 of the Home Office policy set out in the appellant's bundle. However, it is precisely that passage which the judge must be referring to at the outset of [26]. Further, whilst the background information states that return may be feasible but full individual circumstances as to where a person originates from and where they will return to (2.4.4), in other words a case by case assessment. However, that is exactly what the judge did so, setting out the relevant findings and noting in particular the unappealed finding that the appellant's brother has remained living in Aden and that the appellant's family will be able to join him there. On all the circumstances, I find that the judge has made an adequate assessment and reached a conclusion open to the tribunal on the unappealed findings made. No up to date evidence was presented to me to demonstrate that there is an article 15(c) risk in Aden. The core of the appellant's case was rejected as a fabrication.
14. In the circumstances, I find the assertions in the grounds are not made out. Even though the judge made no specific reference to the January 2018 news articles, I am satisfied that there was no material error that could have affected the outcome of the appeal.

### *Decision*

15. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



**Signed**

**Deputy Upper Tribunal Judge Pickup**

**Dated**

### **Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal made an order pursuant to rule 13(1) of the Tribunal Procedure Rules 2014. Given the circumstances, I continue the anonymity order.

### **Direction Regarding Anonymity**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

### **Fee Award**

**Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award pursuant to section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable and thus there can be no fee award.

A handwritten signature in black ink, appearing to be 'J. M. Pickup', written in a cursive style.

**Signed**

**Deputy Upper Tribunal Judge Pickup**

**Dated**