



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

Appeal Number: PA/06530/2018

THE IMMIGRATION ACTS

**Heard at Birmingham
On 15 October 2018**

**Decision & Reasons
Promulgated
On 5 November 2018**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**STEPHEN [Q]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M West, instructed by Duncan Lewis & Co Solicitors
(Harrow Office)

For the Respondent: Mr D Mills, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Mr [Q] against the First-tier Tribunal Judge's decision refusing his appeal against the decision of 8 May 2018 refusing asylum.
2. I need not say a great deal about this case. I have had helpful full submissions by Mr West on behalf of Mr [Q] and equally helpful, albeit briefer, submissions by Mr Mills on behalf of the Secretary of State. The challenge is a reasons challenge. The appellant provided his own grounds,

having been represented at the hearing but without representation at the time that the grounds were drafted and they are, unsurprisingly, given that he is a layman, not quite on the point as one might expect if they had been provided by counsel or a solicitor but in any event he succeeded in obtaining a grant of permission and that is essentially as set out at paragraph 2, subparagraph 3 of the grounds, on the basis of failure to assess the evidence properly and in particular challenges to the credibility findings.

3. Mr West has set out in some detail challenges to those findings and I agree entirely with Mr Mills that although not all the points that were made by way of challenge are more than disagreement there are a number of points which do go to the heart of the case, for example the finding of a lack of credibility concerning the appellant's claim that he and the captain of the vessel had sex on the bridge. The judge found it incredible that they would have chosen the risk of discovery by other shipmates but he had given an explanation for that, one only went on the bridge if invited by the captain there so nobody else would have turned up.
4. Also, with regard to the fight in the bar, the judge took the view that it was extraordinary that homosexual men wishing to keep their relationship secret would openly pick a fight over jilted love in a bar but it is clear, I think, from the appellant's evidence and the other evidence provided by his friend [D] and from the bar owner that that was not the circumstance which occurred. It was a bar fight. People were not declaring themselves as homosexuals, they were simply having a fight in a bar and when somebody mentioned that the police had been called the fighting broke up.
5. The judge took issue with the failure to claim asylum in Glasgow in, I think, February 2018 but does not appear to have considered the appellant's explanation for this other than regarding it as a slur on the Immigration Officers. It was not a slur, it was simply an explanation that he had been interviewed without legal representation, without an interpreter and Twi is his first language. He has some English and an education in English but the asylum interview tells a rather different story from the screening interview and again there was the difficulty of the lack of an interpreter.
6. The matter which was taken significantly adverse to the appellant was an incident in 2005 involving an incident on a tanker but quite apart from the fact that it has no materiality that I can see to his claim, in any event the appellant, I think, did not in his evidence say he suffered burns to his legs but injuries to his legs, which would have happened a long time before the Rule 35 report in 2018 and, as Mr West says, that report was geared towards the 2015/2016 incidents rather than the much earlier incident, which had no bearing on his claim to be at risk on account of his sexuality in any event.

7. Bringing all these matter together, and I agree again with Mr Mills that credibility has to be a holistic assessment although, as I say, there are points made on the appellant's behalf that are no more than disagreement, I think, for example the issue with regard to sex in the shower room with his friend John, nonetheless, there are matters of sufficient weight where the judge's reasons have been found to be wanting and I think that it is right that the matter will have to be reconsidered and reconsidered in full and it seems to me the extent of the reconsideration is such that it will have to be done in the First-tier by a judge other than Judge Lawrence at Harmondsworth or Hatton Cross.

Notice of Decision

The appeal is allowed to the extent set out above.

No anonymity direction is made.



Signed

Date 25 October 2018

Upper Tribunal Judge Allen