



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

Appeal Number: AA/10113/2015

THE IMMIGRATION ACTS

Heard at Bradford

On 1 October 2018

**Decision & Reasons
Promulgated
On 18 January 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**ZM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Uddin, Evolent Law

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, ZM, born on 17 March 1989 is a female citizen of Albania. The appellant claims to fear a blood feud in Albania and also ill-treatment at the hands of her husband's family and a gang which had subjected her to human trafficking. By a decision dated 2 July 2015, the Secretary of State refused the appellant's claim for international protection. The appellant appealed to the First-tier Tribunal (Judge Moxon) which, in a decision promulgated on 11 July 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are five grounds of appeal. First, the judge's analysis of medical evidence is challenged. At [42], the judge noted that a diagnosis of post-traumatic stress disorder (PTSD) had been provided although it had been made "by a counsellor rather than a more suitably qualified expert such as a psychiatrist." Whilst the judge was correct to say that the initial diagnosis was made by a counsellor, it appears to have been reaffirmed by a psychologist and by an officer of an organisation called Solace which had been "providing psychotherapy, complimentary therapies and advocacy support ... in Yorkshire in the Humber region since 2006" (grounds, paragraph 5). In granting permission, Judge Gibb noted there was a certain tension between [42] and [45] of the analysis. At [42], the judge recorded that the appellant had given a consistent account to support workers and counsellors "during which she has presented with symptoms of mental health conditions and genuine upset" and the judge "assigned considerable weight when I assessed the evidence." At [45], the judge noted that the authors of the medical reports had "accepted the appellant's evidence at face value". The experts had failed "to adequately consider whether the presentation of the appellant during the examinations was due to an alternative cause." He noted that it was "not unlikely" that the appellant would suffer symptoms of depression in considering the prospect of returning to Albania which he might find "less pleasant" than living in the United Kingdom. Likewise, the appellant might have presented with symptoms of "nervousness and anxiety" simply by reason of being assessed by mental health workers.
3. I find no error in the judge's analysis. Paragraph [42] represents no more than a statement by the judge that at the outset of his analysis he was considering all the evidence with an open mind. He was correct to do so. He records that the diagnosis of PTSD was not provided by a psychologist or psychiatrist in the first instance but goes no further than that. Indeed, the remainder of [42] consists of the judge reminding himself that he should give appropriate weight to medical evidence. It simply cannot be said that the fact that the initial diagnosis had not been provided by a psychiatrist is a main reason for the judge rejecting the evidence; that rejection is provided at [45] which makes no reference at all to the qualifications of the individual providing the initial diagnosis. I agree with Mr McVeety, who appeared for the Secretary of State, that [45] simply qualifies the judge's initial observations at [42].
4. Secondly, the judge's decision is challenged on a basis that he has applied the wrong burden of proof. It seems likely that the grounds are intending to refer to the standard of proof, rather than the burden. The grounds challenge the use by the judge of the words "it is not unlikely" representing an application of the standard of proof of the balance of probabilities. I reject that submission. The judge has very clearly set out the correct standards and identified upon whom fell the burden of proof earlier in his decision at [5]-[7]. I do not accept that the judge has departed from an application of the correct standard of proof. He was entitled to observe that it was "not unlikely" that the appellant would feel distressed at the prospect of leaving the United Kingdom.

5. Grounds 3, 4 and 5 are, as Judge Gibb observed when granting permission, no more than challenges to findings of fact which were open to the judge on the evidence. Mr Uddin, who appeared for the appellant before the Upper Tribunal, made no reference to these grounds in his oral submissions. He was right to refrain from doing so because they lack merit. The grounds are no more than a series of disagreements with the judge's findings.
6. I am satisfied that the judge's analysis of the evidence including the medical evidence in this appeal is adequate and in accordance with the law. He has not erred for the reasons asserted in the grounds of appeal or at all and I leave his decision undisturbed.

Notice of Decision

7. This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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 their 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.

Signed

Date 10 January 2018

Upper Tribunal Judge Lane

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 10 January 2018

Upper Tribunal Judge Lane