Upper Tribunal
(Immigration and Asylum Chamber) PA/03693/2019

THE IMMIGRATION ACTS

Heard at Glasgow	Decision & Reasons Promulgated
on 14 November 2019	**On 20 November 2019**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

CHRISTELLE [N]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms H McFadzean, of Rutherford Sheridan, Solicitors
For the Respondent: Mr M Clark, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of the Cote d'Ivoire, or Ivory Coast, born on 14 January 1981. The respondent refused her asylum claim by a letter dated 2 April 2019. FtT Judge J C Grant-Hutchison dismissed her appeal by a decision promulgated on 22 July 2019.

2. The appellant has permission to appeal to the UT on grounds set out in her application dated 11 September 2019, (i) – (vi).

3. At [13] of her decision the judge observed that if the business of the appellant's ex-partner was as extensive as she claimed, there would be no reason for the appellant not to provide some evidence. Ground (i) is that the judge failed to consider the appellant's ability to obtain such evidence "given that she was a victim of domestic violence who fled her home". Ms

McFadzean submitted that there was also an error here of requiring corroboration.

4. Mr Clark said that judge was entitled to expect evidence which might obviously be forthcoming, referring to paragraph 339L of the immigration rules. He also pointed out that the reference was to information in the public domain, not personal information from the appellant's former home.

5. Ms McFadzean responded that although the judge referred at [13] to company shares, there had been no evidence that the appellant's ex-partner held his business interests in that way, or that shareholding information was available from public registers in Ivory Coast, and it was obviously easier for the appellant to obtain personal information such as the medical records she produced.

6. I do not find that this ground establishes any error, for these reasons:

   (i) Nothing in the decision suggests that the judge thought that the appellant's case was conditioned on corroboration - which would be an egregious error for any judge to make.

   (ii) Asylum applicants are obliged to make a genuine effort to substantiate their claim, to submit all materials at their disposal, and to offer a satisfactory explanation for any lack of relevant material. Rule 339L is one authority. The principle is also in the Qualification Directive and in well-established case law.

   (iii) The judge expressly noted the distinction between personal documents and public information.

   (iv) The judge's expectation was not of burrowing in public registers.

   (v) It was well within reason to expect some evidence of a business "prominent and widespread throughout Ivory Coast", in a case which turned on the influence and reach of the appellant's ex-partner.

7. At [14] the judge said that the appellant's country expert report gave no evidence of the appellant's ex-partner's links to Mr Bakayoko (said to be his powerful colleague). Ground (ii) is that the judge failed to consider that the expert would not have the knowledge or ability to provide evidence of such links.

8. Mr Clark submitted that this ground makes no clear point.

9. Ms McFadzean responded that the expert's instructions, which were before the judge, showed no request for a report on links, and it was unreasonable to think a report could have been provided.

10. The judge's comment is accurate. She does not go on to say that she would have expected the expert to report on links, if they existed. She says in the same paragraph that even if the appellant's ex-partner had the claimed business contracts, she does not see how that would enable him

to identify her return. The paragraph ends with an observation about no other names being given, which relates to the appellant not to the expert.

11. Ground (ii) tends to misread the decision, and discloses no error at [14].

12. Ground (iii) is directed against [16 e]. Ms McFadzean said that the point was that the judge did not explain the relevance of Mr Bakayoko "sprucing up his image".

13. The thrust of [16 e] is that the judge found no good explanation for Mr Bakayoko not acting on behalf of the appellant's ex-partner, and did not see what the appellant suggested he was being asked to do. No criticism is made of those parts of the reasoning. The observation which is challenged appears to be an incidental reason for thinking it unlikely that Mr Bakayoko would have any sinister involvement. That is not shown to involve any error.

14. Ground (iv), as Mr Clark accepted, discloses an error at [16 e]. The appellant could not be at fault for not disclosing at interview in March 2019 a matter of which she said she was informed only in April 2019.

15. Ground (v) is, as Mr Clark submitted, a generalised disagreement and not a proposition of error on a point of law. To say that a judge failed "to properly consider" the expert report and "objective evidence" leads nowhere. Ms McFadzean's development of this point did not add anything to the other grounds.

16. Ground (vi) raises a legitimate issue over whether the claim should properly be analysed as falling within the Refugee Convention category of particular social group. However, as Ms McFadzean acknowledged, the point is academic, unless on different findings of fact.

17. The appellant's case depended on showing, to the lower standard, that her ex-partner is a person of influence, and likely to trace and persecute her if she returns. The judge gave numerous reasons for finding against her on that matter. Most of her reasons have not been challenged. Only one challenge has been established. The point in ground (iv) was given adverse significance. It is the express reason for not accepting that the appellant's ex-partner knows she has left the country. However, its excision goes only to that point, and leaves all other reasons standing. The decision remains a comprehensive explanation to the appellant why her case has failed. The slip is relatively minor and not such as to require the decision to be set aside. The decision shall stand.

18. No anonymity direction has been requested or made.

Hugh Macleman

14 November 2019

UT Judge Macleman