



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12067/2018

THE IMMIGRATION ACTS

Heard at Manchester
On 19th August 2019

Decision & Reasons Promulgated
On 11th September 2019

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

N A
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Herself.

For the respondent: Mr Bates, Senior Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant was born in the United Arab Emirates and holds Jordanian nationality. She was born in June 1982. She is educated to degree level and worked as a photographer.

2. She married Mr AL in January 2016 in Jordan. Her family attended the wedding. He is originally from Palestine and is born in October 1966. He has acquired British nationality and works as a taxi driver. He was formerly married to SHK, an Algerian national. They have a son together, ZL, born in July 2004. His former wife lives locally.
3. The appellant came to the United Kingdom on 28 January 2018 using a business visit Visa, valid until 25 July 2018. On 29 May 2018 she made a claim for protection. A substantive interview took place on 18 September 2018. The basis of the claim is that she now fears her own family. She claimed the appellant's former wife has turned them against her, making allegations about her moral character. These included claims that she engaged in pre-marital sex and took part in an explicit pornographic video with her husband posted online.
4. The claim was refused on 2 October 2018. The respondent did not accept the claim was true. It was not accepted she had a genuine subjective fear. The respondent concluded the claim was fabricated so she could remain. Reliance was placed upon section 8 of the Asylum and Immigration (Treatment of Claimants) Act 2004 and her failure to claim on arrival. The claim made did not engage the Refugee Convention.
5. In the alternative, if the claim were true the respondent took the view she could relocate within Jordan to avoid her family. It was open to her husband to join her.

The First tier Tribunal

6. Her appeal had been heard by First-tier Tribunal Judge OM Williams at Manchester on 16 January 2018. The appellant was represented by Counsel. In a decision promulgated on 13 February 2019 the appeal was dismissed. By the time of the hearing it was said that her husband's son from his first marriage had recently joined the household.
7. The judge did not find her underlying claim to be true. The judge did not consider it credible that her relatives would believe the things allegedly said about her by her husband's first wife. The judge pointed out that the appellant's family attended her wedding and she continued to be married before coming to the United Kingdom. The judge did not find it credible that her husband's former wife would go to the lengths of contacting family members and relatives in Jordan to cause difficulty.
8. Reference is made inconsistencies between the appellant's screening and substantive interview and the fact that she made no reference to difficulties from her husband's first wife at screening.

9. Furthermore she had not provided a copy of the sexual video and photographs she said had been posted online. The judge felt that reliance could not be placed upon text messages she had provided.
10. The judge pointed out that four months before the hearing her husband's former wife had allowed her son to go and live with his father and the appellant. The judge referred to Mahmood (S 85. NIAA 2002 - 'new matters') [2017] UKUT 00488 and concluded this was a new matter. In any event, had there been consent it would not have made any difference because his presence in the household would not prevent the appellant being returned to Jordan. This is because his biological father and mother remained in the United Kingdom and can take care of him.

The Upper Tribunal

11. Permission to appeal was granted on the basis it was arguable the judge erred in referring to the appellant's family attending her marriage as being relevant given that the allegations occurred after this. It was also considered unreasonable to expect production of sensitive materials such as the sexual video referred to. It was also considered arguable that the judge did not factor into the assessment the conservative culture of Jordan.

The previous listing

12. This appeal had previously been listed on 31 May 2019. The appellant attended and indicated her previous representatives were no longer acting. There was a letter of file from her former representatives, Whitefield Solicitors Limited, dated 9 May 2019. They represented the appellant in the First-tier Tribunal. They advised that they were no longer acting for the appellant on the basis their fees not been paid. The appellant was advised by them to seek other legal advisers and that legal aid may be available. For the Upper Tribunal hearing she had not sought to obtain alternative representation. I asked about this and her husband said they could not afford to pay for lawyers. There was also no Arabic interpreter arranged. Consequently, the matter adjourned. My Directions stated the appellant was being given a further opportunity to organise representation should she so choose.

The relisted hearing

13. The appellant attended and was accompanied by her husband. They indicated they had not sought representation. I was advised that since the last hearing the appellant was safely delivered of her baby and there were no complications. A middle eastern Arabic interpreter was available.
14. I asked her husband for clarification about his son from his first marriage. He said he is an only child who joined their household in September 2018. I asked him how this came about if his first wife was antagonistic. He said it

was so he could spy on them and relay information back. He said that he returned to his mother in March 2019.

15. Mr Bates continued to oppose the appeal, submitting there was no material error of law demonstrated. The judge had rejected the claim that the first wife of the appellant's husband had sent messages to Jordan and had given adequate reasons for this. The judge was entitled to rely upon the fact that his son came to live in the household as a contra indicator of the claim.
16. The appellant said that her husband had been threatened by her family and that they want her to divorce him. He said that his former wife has been sending threatening text messages to her and this continued after the last hearing had adjourned. She said she continues to cause trouble for them and when she was pregnant she tried to kill her and the baby. I asked her for further details and she said she did not actually attempt to kill her but made threats. She said after she gave birth she was following her. She said that her husband had told the police of this but they did nothing.

Consideration

17. In the refusal letter the respondent had rejected her claim that her husband's former wife was maligning her to her family. In support of the lack of credibility the respondent relied upon the fact she did not claim on arrival at Heathrow airport.
18. First-tier Tribunal Judge O R Williams did not find she was being truthful. The judge sets out in detail, beginning at paragraph 26, examples of why her credibility was found wanting. These included the fact that his first wife permitted her child to go and live with the appellant and her husband. The judge also noted that there was no reference by her at screening to the core of her subsequent claim, namely, of her husband's former wife making accusations against her.
19. These reasons were all sustainable. Given therefore that there had been outright rejection of the claim the conservative nature of Jordanian society or the question of honour killing does not arise. It is for the appellant to demonstrate some material error of law in the decision and she has failed to do so.
20. The judge correctly noted that the presence of her husband's son in the household was a recent event, post-dating the decision. Consequently, this was a new matter. Even if considered the judge concluded it would not have affected the outcome of the appeal. As events have turned out this child has now returned to his mother. Similarly, the birth of the appellant's child is a new matter. I find no material error of law in the way the judge dealt with this issue.

21. In conclusion, I find the judge correctly evaluated the evidence, made proper findings of fact and correctly applied the law.

Decision

No material error of law has been shown in the decision of First-tier Tribunal Judge OM Williams. Consequently, that decision dismissing the appeal shall stand.

Signed

Date:

Deputy Upper Tribunal Judge Farrelly.

9 September 2019