



Upper Tribunal

(Immigration and Asylum Chamber) Appeal Number: PA/13906/2018

THE IMMIGRATION ACT

**Heard at Civil Justice Centre
Manchester**

On 14th June 2019

**Decision & Reasons
Promulgated**

On 9th July 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

MFC

(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Brown, instructed by First Law Solicitors

For the Respondent: Mr A Tan, Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge A Davies promulgated on the 2nd April 2019 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's protection claims.
2. The appellant has claimed that he is gay and as a gay man he would be at risk of persecution in Pakistan. For the purpose of the present case it appears to be accepted that gay men would be at risk of mistreatment constituting persecution in Pakistan, alternatively that those perceived as being gay maybe at risk. The central issue therefore before the judge was whether or not the appellant was gay or was or would be perceived to be gay.
3. I have considered whether or not it is appropriate to make an anonymity direction. As the appellant's claim concerns a matter that is private to the appellant, namely his sexuality. Having considered all the circumstances I consider it appropriate to make an anonymity direction.
4. Leave to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Gumsley on the 30th April 2019. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.

Grounds of appeal

5. The central core of the appellant's case is that he is a gay man and as such he would be at risk on return to Pakistan. It is asserted that the judge has made unsafe credibility findings on issues central to the appellant's claim.
6. As part of his account the appellant had described two relationships that he had, one with a friend, [F], allegedly from 2014 to 2016 and another relationship with a man called [IB]. It is suggested in the grounds of appeal that the judge has failed to make clear whether he accepts that the appellant had those relationships. It is contended that a relationship including sexual activities lasting nearly some 3 years, that is the relationship with [F], is a significant indicator that the appellant is gay and in failing to make findings in respect thereof the judge has failed to make clear on significant aspects of the appellant's claim.
7. It is suggested that thereafter the judge's findings that since coming to the United Kingdom that the appellant appears not to have had any form of relationship does not necessarily mean that the appellant is not gay.
8. It is asserted that it is significant that the appellant was approached with the prospect of marrying a Miss [M] but he turned the prospect down. If the intention of the appellant was to remain in the United

Kingdom he had an opportunity of seeking to do so by marrying a British national and seeking to remain as a spouse. It is claimed that this is a significant factor that the judge has failed properly to consider.

9. As a final element to the appeal it suggested whether or not the appellant is gay that the appellant appeared on a BBC news item which was seeking to deal with therapies supposedly impacting on the sexuality of gay people. It is claimed that as a result of appearing on the programme people, including the appellant's family, will perceive him as gay and he would as a result be at risk.

Factual background

10. The appellant is a national of Pakistan.
11. The appellant claimed that he had realised he was gay when he was about 14 years old. He and a friend called [F] had been studying together at the friend's house. During a break from studying appears they became intimate and had a sexual encounter. The judge was willing to give some credence to such sexual encounters not always being carefully planned. [F] and the appellant continued to study together and have sexual relations until the appellant was aged 16. When the appellant was 16 [F] found another partner.
12. Thereafter the appellant has referred to using a dating website Tinder on his mobile phone to meet gay men in Pakistan. The appellant met [IB] on the website in 2013 and some 2 months after first telephoning [IB] met in person at [IB]'s house. The relationship continued to the end of 2013. The appellant claims that neighbours on last of his visits held [IB] and addressed him in threatening terms. At that stage the appellant was frightened and never returned.
13. The appellant confirmed that he was not a member of any gay groups or pressure groups in Pakistan. The appellant claimed that he was discreet about his sexuality in Pakistan because of his fear of how he would be treated.
14. Despite the fact that the appellant appears to continue to have a Tinder account, there are no further relationships either in Pakistan or in the United Kingdom.
15. The appellant came to the United Kingdom on 13 September 2017 on the basis of a student visa, which was valid until 19 October 2020.
16. The appellant did not complete his studies in the United Kingdom. He stopped studying in autumn 2017, that is within a few months of entry. The appellant was allegedly studying at a college in Leicester. In giving reasons for his ceasing to study the appellant has indicated

that his father stopped funding his studies as a result of the appellant appearing on a BBC news item. As pointed out in paragraph 24 of the decision under appeal the news item had not been aired until June 2018. The appellant had admitted first attending a meeting of any LGBT organisation in April 2018. The appellant, in part seeking to explain why he had not joined or searched online for LGBT organisations earlier, claimed that it was because he was concentrating on his studies.

17. It was also to be noted that the appellant had admitted to not attending any meetings of any LGBT organisation until after he had moved to Manchester, which was in the April 2018. Again that would have been several months after he had ceased studying.
18. When pressed with regard to why he had not completed part of his studies or taken the examinations finally the appellant merely stated that he could not take the papers but was claiming to have stopped studying in the May 2018.
19. The appellant's account with regard to why he ceased to study and when he ceased to study was not consistent with the facts as presented by the respondent. The judge found much of the appellant's account inconsistent and not credible as to the circumstance in which he stopped studying.
20. As indicated the appellant claims to have attended LGBT meetings after April 2018. It was noted that the appellant had attended a total of 3 meetings, one on 30 April 2018, one on 21 July 2018 and the final one on 24 September 2018. At an early stage of attending the meetings the appellant had requested support by way of a letter from the organisation but it had been indicated that no such letter would be written until an individual had attended a minimum of 6 meetings on a regular basis. After September 2018 the appellant ceased to attend at the LGBT organisation. The appellant has indicated that he did not have the money to attend the meetings.
21. The appellant had participated in a BBC news item/programme relating to LGBT issues. When asked how he was picked for the program the appellant indicated he got to know about it at the LGBT meeting. At a meeting people were selected to participate. The appellant said that people said " You are single, come with us". The item had been photographed near the gay village. The program was talking about therapies proposed impact on the sexuality of gay people and the way that brains operated.
22. The judge noted that the appellant appeared to have a very limited grasp of the issues explored in the programme. He claims to have identified his sexuality on the program and given his name. The programme had lasted for a few minutes.

23. I note in paragraph 48 that the appellant had been writing on 27 October 2018 to LGBT group in Rochdale run by Mr Adrian Palmer referred to above seeking a letter of support but the letter in response had referred to the fact that they only gave such letters after individuals had been attending 6 meetings. However the appellant had stated in his request:- *I attended some of your meetings in Rochdale, my interview come early in 31st of October could you please help me by supporting letter I need a letter I am very thankful to you if you remember I did BBC news interview as well with you and 2 of my friends thanks.*
24. The appellant claims that that news item had been shown in Pakistan and that his father had seen it. On 6 June 2018 he claimed that he had a final conversation with his father in which his father was asking him to return home. Elsewhere however the appellant has referred to a final conversation with his father as being in August 2018.
25. Thereafter the judge refers to the evidence from the appellant's witness Mrs [M]. She had referred to seeing the programme. She knew the appellant through a friend. She had suggested and arrange marriage for the appellant with a relative.
26. The appellant was served with forms asserting that he had illegally entered the country on the basis of verbal deception, principally on the basis that having entered the United Kingdom he had ceased studying in a relatively short space of time and was therefore not a genuine student. The forms were served on the appellant on 21 May 2018. At that stage the appellant claimed asylum.
27. In considering the appellant's account the judge had noted that only the inconsistencies but matters that were factually wrong. For example the appellant had described his account of his involvement on the dating website Tinder. The judge noted that the appellant's claims about the website were inconsistent with the evidence about the site.
28. The judge had noted other inconsistencies in the appellant's evidence. The appellant claims with regard to his relationship with [F] was similarly inconsistent with other information provided.
29. The date for and reasons for having ceased to study were not consistent with the information about when in fact he did ceased to study and when he moved from Leicester to Manchester.
30. The circumstances and dates for his having discussed the BBC news item with his father was similarly inconsistent. Further he had claimed to have been living openly as a gay man in the United Kingdom but that was inconsistent with Mrs [M]'s evidence.

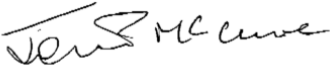
31. The judge has carefully looked at all the evidence including the inconsistencies in the appellant's account. The judge has considered the appellant's claims with regard to his relationships whilst he was in Pakistan. The judge noted that these had ceased some years before the appellant sought to come to the United Kingdom. Since being in the United Kingdom the appellant has not referred to any relationship. The appellant's only involvement with any LGBT organisation was that noted as the 3 attendances at meetings in Rochdale. Whilst the appellant claimed that he could not afford to travel to Rochdale to attend meetings the appellant otherwise has claim to have been attending the gay village in Manchester but gave no evidence of any relationship even a passing relationship arising out of his attendance at the gay village. The judge made the point that attending the gay village would be more expensive than attending 3 meetings.
32. The judge having considered the evidence found much of what the appellant asserted to be self-serving. The judge had claimed to be actively involved in the LGBT community in his witness statement but other than attending 3 meetings gave no real substance to his activities. The judge was satisfied that the actions of the appellant were merely self serving.
33. The judge was willing to accept that the appellant took part in a BBC interview. The appellant must have volunteered for that after his very first meeting with the LGBT organisation in Rochdale. That is clearly the case as his first attendance at the meeting was in April and he was not involved in any other meetings until after the airing of the broadcast. The news item was extremely brief. The judge satisfied that if such a brief news item had been published in Pakistan confirmation of such would have been obtained from the BBC and none had. Whilst the judge appreciated that there was no requirement for corroboration, the fact that confirmation should be readily available and had not been obtained could be taken into account.
34. The judge found that there was no claim that the appellant would be at risk from his own family. Further the judge found that the appellant would not be at risk otherwise from the general population in Pakistan by reason of a foreign news item, even if she did not find to be the case the news item was screened in Pakistan. Further even if the item had been aired in Pakistan there would be available to the appellant an option of internal relocation.
35. The primary findings by the judge was that the appellant's account was inconsistent and contradictory in material respects. Whilst he could give some credence to the fact that the appellant may when he was young have had sexual encounters with another boy, even taking that into account the judge found that the appellant was not gay. In coming to that conclusion the judge took account of the appellant's

claims with regard to his relationship to [IB], but the appellant's claims with regard to Tinder and how the appellant used it were not consistent with the evidence about the site.

36. Otherwise it had to be noted that the appellant made no reference to any further relationship whether within Pakistan or in the United Kingdom.
37. The appellant's account as to why he had given up studying was also contradictory and was not credible.
38. The judge looking at the evidence overall was satisfied that the appellant had not proved that he was gay. The judge has given valid and sufficient reasons for reaching the conclusions that he has. The judge having taken account of all the evidence was entitled to reach the conclusions that he did on a careful analysis of the facts of the case. The judge has given valid reasons for finding that elements of the appellant's account were self-serving or attempts by the appellant to create evidence to support his claim to asylum.
39. In the circumstances the judge was entitled to come to the conclusions that he did and there is no material error of law in the decision.

Notice of Decision

40. I dismiss the appeal on all grounds.

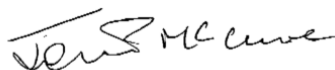
Signed 

Deputy Upper Tribunal Judge McClure
2019

Date 1st July

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 the appellant or any member of the appellant's family. This direction applies both to the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings



Signed
Deputy Upper Tribunal Judge McClure

Date 1st July 2019