



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

Appeal Number: PA/02930/2019

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 21 January 2020**

**Decision & Reasons  
Promulgated  
On 30 January 2020**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**YT**

**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Khan, instructed by Fisher Stone, solicitors  
For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a male citizen of Algeria who was born in 1994. By a decision which was promulgated on 7 November 2019, Upper Tribunal Judge Plimmer found that the First-tier Tribunal had erred in law such that its decision in respect of Article 3 ECHR fell to be set aside. The Tribunal's decision on asylum grounds (dismissing the appeal) was not set aside. The Upper Tribunal Judge directed that the question of whether there is a valid appeal on Article 8 ECHR grounds be determined at the resumed hearing. A Transfer order was made on 7 November 2019.
2. At the resumed hearing on 21 January 2020, the appellant attended but he did not give evidence. The hearing proceeded by way of submissions only. The burden of proof is on the appellant and the standard of proof is whether there are substantial grounds for believing there to be a real risk that the appellant will suffer treatment contrary to Article 3 ECHR if returned to Algeria. The determination of other issues within the appeal, including any appeal on Article 8 grounds, is subject to the standard of proof of the balance of probabilities.

### **Article 3 ECHR**

3. The appellant's main submission is that, if he were to be returned to Algeria, he would be a real risk of destitution and would suffer harm contrary to Article 3 ECHR. It had been accepted by the respondent that the appellant was a victim of trafficking. Miss Khan, who appeared for the appellant at the resumed hearing, acknowledged that the test for Article 3 ECHR harm on the basis of destitution is high (see *Said* [2016] EWCA Civ 44). However, she sought to distinguish the factual scenario addressed in *Said* from the instant case on the basis that the poverty and deprivation which the appellant is likely to suffer if returned to Algeria is, at least in part, due to the failures of the Algerian government. The appellant claims that his birth has never been registered and that he does not have any identity document. He was mistreated in the past by the Algerian police when he asked for assistance. The appellant claims that, without an identity card, he would be unable to rent accommodation.
4. Without seeking to go behind the agreement of the parties that the appellant has been subject to trafficking from Algeria that he has suffered harm in that country in the past, I am not satisfied on the evidence that the appellant has shown that, as an Algerian citizen, would be denied all assistance by the Algerian state. His past chaotic life in Algeria may well have led to his being unable to obtain any identity document but there was no evidence to show that the Algerian authorities have sought to deny his nationality nor has any submission been made to the effect that he is stateless. Whilst I fully accept the appellant's vulnerability as a consequence of his mental health difficulties, there is no evidence to show that he has approached the Algerian Embassy in London with a view to obtaining an identity card. The medical evidence does not indicate that he is incapable of undertaking such a course of action or that it might harm him in any way. Moreover, even if the appellant were to be returned to Algeria with a *laissez passer*, it has not been shown that he would be

admitted to the country and then effectively treated by the authorities as a non-citizen. These findings and observations lead me also to reject the submission that any problems which the appellant might face in Algeria would emanate from failings on the part of the Algerian authorities. In my opinion, the appellant's claim that he would be destitute does fall to be considered by reference to the test in N (2005) UKHL 31. There is no submission that he meets such a test. The appellant's Article 3 ECHR appeal is accordingly dismissed.

### **Article 8 ECHR**

5. At the resumed hearing, both representatives accepted that Article 8 is not a new matter appeal, having been clearly pleaded in the grounds of appeal to the First-tier Tribunal.
6. Miss Khan submitted that the appellant fell within the provisions of paragraph 276ADE(vi):

(vi) subject to sub-paragraph (2), is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK.

The appellant is 25 years old. He entered the United Kingdom on 19 February 2015. Miss Khan submitted that the appellant would face very significant obstacles to his integration in Algeria. Appellant relies upon two expert reports. Dr Miller has produced a report of June 2018 which was updated on 4 December 2019. Dr Miller states that the appellant is suffering from complex PTSD with the consequence of he has suffered a substantial impact on his functioning in important domains including educational, social interpersonal and occupational skills. Dr Miller was unable to comment on the appellant's ability to work since he has not been employed whilst living in the United Kingdom. Dr Millard did comment that, if the appellant were permitted to stay in United Kingdom, it was likely that he would have 'difficulties engaging in work.' The appellant also relies upon the report of Ms Pargeter to dated 27 June 2019. Ms Pargeter has provided expert opinion on conditions in Algeria. She considered that the appellant would have difficulty accessing proper long-term support from either the state or civil society such as to get him into the workforce and adequate accommodation. There are state-run homeless shelters but the conditions are poor and individuals are only accepted for short periods. She concluded that there was a real risk that the appellant would 'find himself back on the streets.'

7. The Tribunal is required consider any private life which the appellant may enjoy by the standards pertaining in Algeria rather than in the United Kingdom. Having said that, the appellant does not appear to have integrated to any great extent in United Kingdom society since he arrived here, primarily as a result of his illness. Moreover, whilst it might be argued that, if he were to find himself homeless and without job, the

appellant would be returning to conditions in Algeria no different from those which he previously experienced, I consider that integration into any society should require, at the very least, the potential for finding work and accommodation. I accept the expert's comments regarding the inadequacy of homeless shelters, although I have not found that the appellant would be denied an identity document should he seek to obtain one. Mrs Pettersen, who appeared for the Secretary of State, submitted that account had to be taken of the availability of the UK government's AVR (Assisted Voluntary Returns) scheme. This scheme would provide the appellant with some funds to assist his return to Algeria. Miss Khan submitted that no particulars of the scheme have been provided by the respondent; the operation of the scheme is different in different countries and, without details for Algeria, the Tribunal should discount the scheme as a factor. I agree. Without relevant details, I cannot assess to what extent, if any, AVR would assist the appellant in reintegrating into Algerian society.

8. I find that the appellant does, as at the present time, face very significant obstacles to his integration in Algerian society. It is his mental health problems, rather than difficulties caused by the Algerian authorities, which are likely to mean that he would return to living on the streets, a form of living which does not constitute integration in any meaningful sense. The obstacles which the appellant faces at the present time are the result not of any inability to establish his citizenship or identity in Algeria but on account of his mental health problems. These problems have caused him to become isolated and, for the time being, effectively unemployable. I do find that the appellant is in good physical health and that, when he has been able to overcome his mental health problems, there is no reason why he should not return to Algeria where I find that he should then be able to access state benefits /identity documentation. I stress that it is the appellant's mental health problems, as described by Dr Miller, which lead me to conclude that the appellant is, at the present time, unable to integrate effectively. I find that the appellant meets the requirements of paragraph 276ADE (vi) and that his appeal on Article 8 grounds succeeds.

### **Notice of Decision**

The Upper Tribunal has remade the decision. The appeal is **allowed** on human rights (Article 8 ECHR) grounds.

Signed

Date 21 January 2020

Upper Tribunal Judge Lane

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

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.