



IAC-FH-CK-V1

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

Appeal Number: PA/08695/2019 (V)

THE IMMIGRATION ACTS

**Heard at Field House
By Remote Hearing
On 30 September 2020**

**Decision & Reasons Promulgated
On 12 October 2020**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**VC
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Panagiotopoulou, Counsel instructed by Yemets Solicitors

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

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was video by Skype (V). A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. I did not experience any difficulties, and neither party expressed any concern, with the process.

DECISION AND REASONS

1. The appellant, a citizen of Ukraine born in August 1989, applied for asylum on the basis of being a draft evader who had been sentenced (in his absence) to two years' imprisonment. His application was refused by the respondent on 23 August 2019. The appellant appealed to the First-tier Tribunal where his appeal was heard by Judge of the First-tier Tribunal Clarke ("the judge"). In a decision promulgated on 13 March 2020 the appeal was dismissed. The appellant is now appealing against that decision.
2. To corroborate his asylum claim, the appellant submitted three documents: two call up notices (dated 16 December 2017 and 24 January 2018) which he claimed had been handed to his wife ("the Notices"); and an interim military certificate dated 17 October 2017. An interim military certificate is a temporary document issued by the local military authorities, typically where a new military identification booklet is to be issued. A call up notice (also referred to as a call up summons) is the document dispatched to summon a person for military service.
3. The judge found the appellant to not be a credible or reliable witness and rejected his account in its entirety. At paragraph 26 of the decision, the judge stated, inter alia, that he did not find that the appellant had evaded the draft.
4. The appellant relied on a report by Professor Galeotti, an expert on Ukraine. The report comprises of a detailed assessment of the three documents submitted by the appellant. Professor Galeotti expressed the view that, on the balance of probabilities, the two Notices are genuine. He explained that he has handled 35 such documents in the past, of which he has retained 18 to use for comparison purposes. Professor Galeotti reached his conclusion on the basis of an assessment of the layout, content, and corroborating details of the Notices.
5. Professor Galeotti undertook a similar assessment of the interim military certificate. He expressed the view that the document appeared genuine, but added the caveat that although he has seen such documents before he did not have a copy himself with which to compare it.
6. At paragraph 13 of the decision the judge set out reasons why, notwithstanding the view of Professor Galeotti, he did not accept that the interim military certificate was genuine. There is no equivalent consideration in the decision of Professor Galeotti's assessment of the Notices.
7. The appellant advanced five grounds of appeal. The first three concern the judge's findings about the aforementioned three documents. The second two concern the judge's assessment of the appellant's credibility. It is not necessary to consider all five grounds because there is a single error, identified in the first ground, which undermines the decision to such an extent that it will need to be set aside and re-made afresh without any findings of fact preserved.
8. The error concerns the absence of any consideration of the expert evidence concerning the genuineness of the Notices.

9. The core of the appellant's claim was that on two occasions his wife had been handed a call up notice that he had ignored. He submitted the Notices, along with a report from an expert (whose expertise was not challenged), in which, based on a detailed assessment of both their form and content, the expert expressed confidence that the Notices were genuine.
10. The judge was not bound to accept the view of Professor Galeotti as to the genuineness of the Notices. However, it was a material error of law to not engage with Professor Galeotti's assessment of the Notices and to not give reasons explaining why Professor Galeotti's opinion was rejected.
11. I have considered whether other findings in the decision can be preserved and have reached the conclusion that they cannot. This is because the Notices are central to the appellant's claim and the evaluation of the appellant's credibility cannot be separated from the question of whether they are genuine.
12. As the appeal will need to be considered afresh with no findings preserved, having regard to paragraph 7.2(b) of the Practice Statements of the Immigration and Asylum Chambers of the First-tier Tribunal and Upper Tribunal, I have decided that the appeal should be remitted to the First-tier Tribunal.

Notice of Decision

1. The appeal is allowed.
2. The decision of the First-tier Tribunal is set aside and the appeal is remitted to the First-tier Tribunal to be heard afresh by a different judge.

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 his 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

D. Sheridan
Upper Tribunal Judge Sheridan

Dated: 7 October 2020