Upper Tribunal
(Immigration and Asylum Chamber) Appeal ref: PA/09790/2019 (P)

THE IMMIGRATION ACTS

Decided under rule 34 Decision & Reasons Promulgated
On 03 August 2020

Before

UT JUDGE MACLEMAN

Between

S A R

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS (P)

1. FtT Judge Bristow dismissed the appellant's appeal by a decision promulgated on 22 January 2020.

2. The appellant's grounds of appeal to the UT are set out in his application for permission, filed on 17 February 2020. Ground (a), directed against the FtT's refusal of permission, is irrelevant. His substantive complaints are at (b) – (j).

3. FtT Judge Kebede granted permission by a decision dated 27 February 2020:

> "Arguably the judge failed to have regard to arguably material evidence … in the appellant's … bundle. Whilst it may be that the evidence would not have led to a different credibility finding, given the inconsistencies noted by the judge in the other evidence, it is …

> arguable … there was evidence which ought to have been addressed …"

4. On 1 May 2020, the UT issued directions with a view to deciding without a hearing whether the FtT erred in law and, if so, whether its decision should be set aside. Parties were also given the opportunity to submit on whether there should be a hearing.

5. On 5 June 2020, the appellant filed submissions in response, at [1 i] and at [3] inviting the UT to set aside the decision of the FtT and remit for a fresh hearing.

6. At [1 iii] the appellant asks, if the UT does not find an error of law, for an oral hearing, "to put forward his points and participate in a hearing. In fairness, the appellant should be entitled to a hearing".

7. In a submission filed on 11 June 2020, the respondent submits that the FtT made no material errors and the appeal should be dismissed. The SSHD asks for decision "on the papers", and says there is no particular reason why oral argument is required.

8. The first question is whether there should be a hearing.

9. Oral arguments are sometimes "game-changing". However, fair resolution of issues such as the present on written materials is a course provided for in the rules; is common practice in this and in other jurisdictions; and is well within professional and judicial competence. The appellant does not develop any argument on why an oral hearing is necessary in his particular case. He has had ample opportunity to explain his position. His alternative request at [1 iii] (to use another colloquialism) aims for "a second bite at the cherry".

10. I find no feature of this case such that it cannot be resolved without an oral hearing. It may be dealt with fairly and justly, in terms of rules 2 and 34, on the written materials.

11. Ground (b) is accurate, to the limited extent that the disappearance of Yafis (a Shia Muslim tv host) is not explicitly mentioned in the decision. However, judges do not have to mention every specific item or allegation. The matter is covered by rejecting the appellant's claim to have been involved with tv news. He does not show that, on a full and fair reading of the claim and of the decision, this matter required specific consideration.

12. Ground (c) complains of misreading a death certificate at [30-32], but it is plainly within reason to find it contradictory to describe a death, allegedly from murder, both as "unnatural" and as "normal".

13. The ground overlooks the further (although lesser) feature noted by the judge: the name on the certificate did not fully correspond with the appellant's account.

14. There is no value in saying that the certificate "can be verified". It was for the appellant to establish his case. He does not say that at any earlier stage he suggested that the onus passed to someone else. It is far too late to raise such a point in grounds of appeal to the UT.

15. Ground (d) alleges that the judge should not have founded on different versions of the name in newspapers and on the death certificate, but again does not show that the judge's view was not a reasonable one; and overlooks other reasoning, such as absence of reference at interview to the matter, which later became a significant component of the claim.

16. Ground (e) is wrong both about the decision and about the law. The judge did *not* "require corroboration". At [42] he directed himself that there is no such requirement. He noted the absence of evidence which the appellant might reasonably have been expected to provide. That approach is thoroughly established in the UNHCR guidelines (to which the ground vaguely refers), in the immigration rules, and in case law.

17. The grounds insist and disagree, and complain of no rounded assessment; but they do not fairly represent the reasoning in the decision as a whole.

18. The appellant arrived at the UK border on 12 September 2016 saying that he was here to attend his graduation and for no other reason, before claiming on 13 September 2016 that he was here in fear of persecution. That of course was not conclusive, but the judge was entitled to take it at [41] as "strongly indicative". He gave numerous other reasons, several of which are unchallenged in the grounds.

19. Ground (l) and (m), going to sufficiency of protection and to internal relocation, are only continued disagreement. As those issues were in the alternative, they need not be explored further.

20. The grounds do not undermine the decision as a legally adequate explanation of why the appeal was dismissed.

21. The decision of the First-tier Tribunal shall stand.

22. The FtT made an anonymity direction. Parties have not addressed that matter. Anonymity is retained.

23. The date of this determination is to be taken as the date it is issued to parties.

Hugh Macleman

UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email.