



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

PA/09179/2019 (V)

THE IMMIGRATION ACTS

Heard remotely by *Skype for Business*
on 17 February 2021

Decision & Reasons Promulgated
on 2 March 2021

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ABDULGHAFOOR HAIDARI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr K Dalziel, of Loughran & Co, Solicitors
For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal against the decision of FtT Judge Debra H Clapham, promulgated on 10 December 2019.
2. The appellant is a citizen of Afghanistan, born on 3 June 1977. Previous proceedings, PA/11882/16, ended with the decision of FtT Judge P A Grant-Hutchison, promulgated on 9 October 2017. The appellant did not establish that he had been employed by the United Nations, or threatened by the Taliban.

3. In the proceedings before Judge Clapham, it was accepted, based on further evidence, that the appellant had worked for the UN. However, the allegations of threats were again rejected.
4. The grounds of appeal to the UT are:
 - (1) failure to assess credibility in light of objective evidence of specific targeting of UN employees (numerous sources are cited);
 - (2) failure to assess authenticity of warning letters in the same light; and
 - (3) assessing credibility on “unsourced subjective views of plausibility instead of with reference to the up to date, multiple sourced and factual objective evidence referred to *supra*”.
5. In response to directions issued by the UT, the appellant preferred an oral hearing.
6. I am obliged to both representatives for their clear submissions.
7. The main points, further to the grounds, which I noted from the appellant were these:
 - i) The starting point for the FtT was its acceptance at [83] that the appellant worked for the UN. Its assessment should have been made in light of the objective evidence around that fact. There was no indication in the decision of that evidence being considered in the round.
 - ii) There was an almost entire absence of reference to the objective evidence, not even a standard recitation that it had all been considered. The only specification was at [92], the end of the decision, a passage from the respondent about “westernised behaviour” in returnees, a matter on which the appellant had not based his case.
 - iii) In his FtT inventory II the appellant provided over 500 pages of evidence, with a key passage index, and in inventory IV a further 40 pages.
 - iv) The FtT’s approach did not compare well with *KB & AH* (credibility-structured approach) Pakistan [2017] UKUT 00491 (IAC), which explained that one of the four key factors in assessing credibility was consistency with objective evidence.
 - v) The judge did say that she assessed the threatening letters “in the round”, but she failed to say, “in the round of what”. Those letters went to the heart of the claim, being connected to the appellant’s work for the UN.
 - vi) The FtT’s decision should be reversed, failing which the case should be remitted to the FtT for fresh hearing, but preserving the finding that the appellant worked for the UN.
8. The submissions for the respondent were:

- i) The agreed starting point was that the appellant worked for the UN, but credibility remained for assessment.
 - ii) The judge was not bound to rehearse the details of the large bundles of background evidence before her. The appellant did not claim to be more than a low-level employee of the UN. Having no significant profile, background evidence alone did not establish real risk.
 - iii) The crucial question was whether the appellant had been threatened. It was open to the judge to conclude that he had not been. She gave legally adequate reasons, in which no specific errors were suggested.
 - iv) The judge's conclusion did not involve the making of any error on a point of law. Her decision should stand.
 - v) If there was any error, the case should be remitted.
9. I reserved my decision.
10. The appellant did not refer directly in the UT to any of the large volume of "objective" (or background) evidence. It has not been said that the FtT judge was asked to make findings based on any specific items, so he can hardly complain about their absence.
11. I have looked at the key passage index, pages 461 – 488 of inventory II. That is in itself an extensive survey, mainly about the activities of the Taliban, and not limited to cases such as the present. It includes many passages on risk to returnees who are perceived as having become westernised. I do also note several passages to the effect that UN staff members may be targeted by insurgents, which does not exclude lower-level employees, particularly due to the indiscriminate nature of attacks; see, for example, the references at pp. 485 – 486.
12. The appellant did not argue that he is entitled to protection because he had worked for the UN, at a low level, without more. No doubt that was because the guidance and background evidence does not support a real risk in such an instance.
13. The background evidence does show that *some* persons in the appellant's category may become targets. That set the scene in which the credibility of his individual claim became crucial. I do not agree that the Judge reached her decision without regard to that well known context. It was common ground. There was no need to set out matters which were uncontentious.
14. The grounds and submissions for the appellant do not fairly reflect the FtT's reasons for dismissing the appeal, which include the following:
- i) At [82], the agreed starting point was the previous adverse decision, subject to the concession that the appellant worked for the UN.
 - ii) At [83], no good reason for absence of further documentation from the UN on threats made to and reported by the appellant, security protocols in place, or the reason he left his employment; evidence

that his contract *expired*, contrary to his claim; unsatisfactory explanation that to seek further information would endanger anyone; no reason for UN not to provide such information if requested.

- iii) At [84], hard to understand why the Taliban would telephone the appellant in a language he did not understand; concerns over why the appellant would “hide” at his home for two months, where he could easily be found; concerns over translation of threatening letter; not credible the appellant would not ensure his employer could get in touch with him, or take no further steps to protect himself; self-contradiction over whether he had somewhere else to go.
 - iv) At [85], not credible the UN would not have protocols in place over security of staff; failure to obtain information on that matter.
 - v) At [86], not credible the appellant would wait 5 days to take threatening letter to UN office; explanation that Taliban might have been waiting outside his house rejected, as if so, they could just have entered the house.
 - vi) At [87], concerns over translation, adopted from previous decision.
 - vii) At [88], not credible that under circumstances as claimed, the appellant’s supervisor “would rush off to a meeting” [effectively brushing off the appellant’s report].
 - viii) At [89], absence of evidence from appellant’s supervisor.
 - ix) At [91 – 92], appellant’s acceptance of his employment as “by no means high profile”; and “cannot be perceived” as such by the Taliban.
15. Some of those reasons overlap. Some are obviously stronger than others. A few of them are not much more than statements that assertions are “not credible”, without specific reasoning; but it is plain enough why those assertions were put in that category.
16. The essential challenge in all 3 grounds is lack of contextualisation. The only criticism of adequacy of reasoning is the rather vague assertion in ground (3) of “unsourced subjective views of plausibility”. None of the reasons given by the FtT is directly attacked.
17. The background evidence did not require a finding in the appellant’s favour, only because he had worked for the UN; and he did not say that it did. He has not referred to anything in the background evidence which undermines any of the FtT’s reasons for not accepting his credibility. The overall theme of those reasons is that the appellant was able to show that he worked for the UN, because that was true; but he was unable to establish the alleged threats against him, which ought to have been just as easy, because that was an embellishment. The appellant has not suggested anything wrong with the reasoning that if true, the claim could have been substantiated through the UN.

18. The appellant has not shown that the FtT erred by deciding the case without regard to the possibility that a low-level employee of the UN *might* be threatened by the Taliban. The FtT concluded that the appellant had not established a real likelihood that such threats were issued. That conclusion is not shown to have involved the making of any error on a point of law.
19. The decision of the First-tier Tribunal shall stand.
20. No anonymity direction has been requested or made.

Hugh Macleman

19 February 2021
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.