



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/10016/2016 (V)

THE IMMIGRATION ACTS

Heard by *Skype for Business*
On 17 March 2021

Decision & Reasons Promulgated
On 25 March 2021

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

A K L

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr J Frost, instructed by Duncan Lewis & Co, Solicitors
For the Respondent: Mrs R Pettersen, Senior Home Office Presenting Officer

DETERMINATION and REASONS

1. The appellant is a citizen of Vietnam, aged 28. FtT Judge Khan dismissed his appeal against deportation by a decision promulgated on 22 January 2020. That was set aside by my decision dated 27 January 2021, which should be read along with this.
2. Remaking was not restricted by reference to the grounds and the grant of permission.
3. I am obliged to both representatives for useful and accurate submissions, which brought the case into clear focus.

4. The appellant is a victim of trafficking. The question is whether, if returned, he is at real risk of abuse or re-trafficking, given his individual circumstances. That is a matter of fact and degree.
5. Parties agreed that six relevant factors may be taken from the respondent's policy guidance, updated in April 2020, at paragraph 2.4.8:
 - (1) Outstanding debt to traffickers. There is no evidence of such debt.
 - (2) The person knowing the trafficker. The appellant identifies the main person concerned in trafficking him from Russia to the UK, but that was some years ago. The suggestion that there might be a network, possibly linked back further to trafficking of the appellant's mother, is vague and rather speculative. The evidence does not support an inference of ongoing interest reasonably likely to follow the appellant to Vietnam.
 - (3) Absence of a supportive family. The evidence shows no family in Vietnam.
 - (4) No other support network. The respondent refers to the support she is willing to provide, which is a reasonable point, but also accepts that is not enough on its own. There are no other indicators of assistance of any substance.
 - (5) No or little educational or vocational skills. The appellant has no skills of value, even at the lower end of the job market.
 - (6) Mental health conditions, which may well have been caused by experiences of abuse. I take this factor to cover general capacity, as well as specific health conditions. The respondent refers to a finding in a report by a clinical psychologist that the appellant does not have a learning disability, but she accepts that is not the end of the matter. The report places the appellant on the borderline of disability; at best, in the low average range. Other reports, not disputed, show that he was an easy victim in the past, and that he is naïve and vulnerable, with a history of PTSD.
6. While the assessment is not simply a "box ticking" exercise, the appellant satisfies four of the six factors. The evidence shows him to be a less resilient young man than the average, at real risk of becoming subject to abuse in Vietnam, including the risk of being trafficked out of the country. His appeal, as originally brought to the FtT, is accordingly allowed on Refugee Convention grounds.
7. The FtT made an anonymity direction, which is maintained.

Hugh Macleman

17 March 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.