



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

Appeal Number: PA/10354/2019

THE IMMIGRATION ACTS

**Heard at Field House by Skype Remote Video Link
On 20 January 2021**

**Decision & Reasons
Promulgated
On 4 March 2021**

Before

UPPER TRIBUNAL JUDGE PITT

Between

**MR ABB
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr L Singh, instructed by J M Wilson Solicitors

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DECISION AND REASONS

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.

This is an appeal against the decision issued on 17 January 2020 of First-tier Tribunal Judge McKinney which refused the protection and human rights claim of the appellant.

The appellant is a national of Sierra Leone and was born in 1980.

He came to the UK on 7 September 2015 with leave until 22 October 2018. He claimed asylum on 17 October 2018. That claim was refused by the respondent in a decision dated 11 October 2019. The appeal then proceeded to the First-tier Tribunal and was dismissed in the decision of 17 January 2020 of First-tier Tribunal Judge McKinney. Permission to appeal to the Upper Tribunal was granted by the Upper Tribunal in a decision dated 20 April 2020.

The Appellant's Claim

The appellant maintains that he is the nephew of X, a former minister and chairman of the All People's Congress (APC) Party in the western area of Sierra Leone. The appellant lived with his uncle from the age of 12 until he left Sierra Leone to come to the UK.

The appellant maintains that he is at risk because of his connection to his uncle. His uncle and his family disappeared after elections were held in Sierra Leone on 31 March 2018. Members of staff at his uncle's home were attacked and killed. The appellant fears that he will face violence on return also as a close relative of X.

The appellant also maintains that he would be at risk on return as he is a member of the APC and also because he is a journalist. He obtained a degree in communications in Sierra Leone in 2013 and worked as a freelance journalist between 2007 and 2015. He published articles critical of the current ruling party as part of his work as a freelance journalist and spoke on the radio on political issues. He maintains that he campaigned with his uncle in 2012.

The appellant submitted that he made his claim for asylum only in October 2018 as the key event., the disappearance of his uncle, occurred only in March 2018 after the elections in Sierra Leone. The appellant maintained that he was only informed of the disappearance of his uncle and his family when a journalist contacted him about the issue in August 2018.

Decision of First-tier Tribunal

The First-tier Tribunal did not accept the core of the appellant's claim, that he was at risk as the nephew of X. The reasons for reaching this conclusion are set out in paragraphs 49 to 65 of the decision. Put simply, the judge found that there was insufficient evidence that the appellant was the nephew of X, particularly so where he claimed to have lived with him for over 20 years.

The judge found in paragraphs 49 and 50 that the appellant's evidence as to his uncle's political career did not accurately reflect what had happened, his uncle being removed from his post as a minister rather than merely being a Minister of Trade in 2012. The uncle being "sacked" or "removed from his

post” was not mentioned by the appellant when asked to discuss his uncle’s political career in his asylum interview. reported in national press.

In paragraphs 51 to 52 the judge considered photographs provided by the appellant of an APC rally from 2012 at which he maintains he was present together with his uncle and the former President of Sierra Leone. As the judge notes in paragraph 51, the photographs did not purport to show a picture of the appellant and his uncle together but to show them separately attending the same rally. The judge accepts that the photographs showed the former President attending a rally. The judge also noted that the photographs showed a man in white clothing attending. The appellant’s evidence was that this was his uncle. The judge also accepted that the photos showed the appellant attending the same event. However, the First-tier Tribunal found the man in white clothing was not dressed the same as the other officials who were present. This did not suggest that he was X and a regional chairman of the APC. The appellant was dressed casually and was carrying a camera. The First-tier Tribunal concluded that all that the photographs showed was the appellant attending a rally as part of his work as freelance journalist.

In paragraph 53 of the decision First-tier Tribunal Judge McKinney the judge found that an old family photograph purporting to show the appellant’s uncle in his youth together with the appellant’s grandmother and his mother were of very little evidential value as there was no way to identify who the people in the photographs were and the people in them could not be compared to any more up-to-date photos.

In paragraph 54 the judge found that only limited weight could be placed on an email from the appellant’s brother, AB, in the USA. The First-tier Tribunal accepted that the email was from AB, an African Union adviser to the United Nations in New York. The judge reached this conclusion where the email contained the office address and a copy of the writer’s work ID card. The judge did not take the evidence in the email at its highest, however, where the information given about the appellant’s relationship to X was almost word for word that given by the appellant, where the names of the appellant and AB were different even though they claimed to be full brothers. The judge also placed less weight on the email as AB was not available to be cross-examined and this could have been arranged relatively easily by the use of video link.

In paragraph 55 the judge found that there was reliable evidence that there was a functioning birth certificate system in place in Sierra Leone at the time of the birth of the appellant’s parents and his uncle and that, as a result, the appellant’s claim that it was not possible to obtain birth certificates showing his relationship to his uncle was not credible.

In paragraphs 57 to 59 the judge found that the appellant’s evidence concerning events at the home of the appellant’s uncle after the March 2018 elections was not credible. The appellant’s evidence was that government supporters attacked the uncle’s home after the elections were concluded. This was inconsistent with a newspaper articles on these events provided by the respondent which showed that X fled his home on 2 April 2018, before the

conclusion of the counting of the election and at a time when the APC were still in power. In paragraph 59 the judge found an inconsistency where the appellant maintained that a member of his uncle's staff had been killed but this significant incident was not referred to in the newspaper report.

In paragraphs 60 to 62 of the decision, the First-tier Tribunal considered a newspaper article provided by the appellant dated 24 July 2018. The judge sets out numerous reasons for placing little weight on this article. The source was not independent as the appellant claimed to be a former colleague of the editor. The appellant claimed the editor had contacted him requesting information but there were no documents to support that contact. The article referred to the motive of the attack on X and his family being "unclear" when the appellant's account was that it was a politically motivated attack following the March 2018 elections. The judge noted that nothing in the article other than a specific quote from the appellant actually named X. The judge also found in paragraph 62 that it was not credible that the editor, supposedly a friend of the appellant, would print an article likely to create difficulties for the appellant where it highlighted his relationship to X.

Grounds and Discussion

The first ground maintains that the First-tier Tribunal contradicted himself when considering the photographs of the appellant at a rally in 2012. This ground appears to be a misreading of the judge's findings. The appellant maintained that the photographs showed his uncle at the rally and that he was also at the rally. The judge refers in paragraphs 50 and 51 to the appellant's case being that the man in white was his uncle but does not at any point accept that this person was X or that the applicant was related to him. The First-tier Tribunal accepted only that the man in the white clothing and the appellant appeared to be attending the same event but no more than this.

References to judge was entitled to find in paragraph 50 of the decision that, "if the appellant were his nephew and were as close to his uncle as he proclaims, I find he should have known these important facts". The judge notes for example that the profile of his uncle was

The second ground challenges the judge's approach to the newspaper articles again maintaining that there was an inconsistency. The judge stated in paragraph 59 that it could be expected that there would be "independent" newspaper coverage of the attack on X's home and death of one of his uncle's staff. Ground two argues that the appellant had provided a newspaper article on the attack, however, the one published by his former editor on 24 July 2018. Again, it appears that this ground misreads or misstates what was said by the First-tier Tribunal. The First-tier Tribunal did not dispute that the appellant provided the newspaper article dated 24 July 2018 but did not find that this article was reliable for a number of reasons; see paragraph 15 above. The reference to the "independent" press reporting on the death of a member of X's staff and there were no other reports of such an event.

The third ground objects to the First-tier Tribunal placing little weight on the email from AB where he was not available for cross-examination. In my view, the First-tier Tribunal was entitled to take this approach. It would not have been difficult for AB to give evidence by video link and the judge was not required to take his written evidence at its highest in the absence of cross-examination. This approach did not amount to failing to apply the correct standard of proof.

The fourth ground maintains that the First-tier Tribunal erred in conducting independent research and failed to properly reflect the available country evidence, for example the US State Department Report for 2018. Paragraph 55 of the decision shows that the parties agreed that the judge could consider country material on Sierra Leone where none had been provided for the hearing. Further, paragraphs 69 and 70 of the decision sets out what is, in my judgment, an accurate summary of the sections of the U.S. State Department Report for 2019 contained in the appellant's grounds so there is no merit in the submission that the judge did not consider that material correctly. The materials sets out that there is relative freedom of expression in Sierra Leone including for the press and that the government generally respected those rights but there were exceptions. The only specific example of political harassment of the press concerned the APC itself rather than the current government.

For all of these reasons, I do not find that the grounds are capable of showing a material error of law in the decision of the First-tier Tribunal.

Decision

The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: S Pitt
Upper Tribunal Judge Pitt

Date: 21 February 2021