Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number:** HU/05648/2020

THE IMMIGRATION ACTS

Heard at George House, Edinburgh	Decision & Reasons Promulgated
On 19 January 2022	**On 2 February 2022**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

ADIN KARLDON FOUCHONG

Respondent

For the Appellant: Mr M Diwyncz, Senior Home Office Presenting Officer
For the Respondent: Mr A Caskie, Advocate, instructed by SJK Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this decision refers to them as they were in the FtT.

2. FtT Judge Prudham allowed the appellant's appeal by a decision promulgated on 16 August 2021.

3. The only issue now is whether the FtT provided sufficient reasoning for finding very significant obstacles to the appellant's integration into Trinidad and Tobago.

4. The FtT's reasoning is at [28]:

   (i) The appellant has not been to the Caribbean since he was 8 years old.

   (ii) He has no family or other links to anyone in Trinidad and Tobago.

   (iii) He is still training as a hairdresser and other than that has limited employment experience.

   (iv) He is in recovery from alcohol abuse, managed largely through family support, which would be absent on return.

   (v) For these reasons, he would face "very significant obstacles in obtaining employment and accommodation".

   (vi) "In addition," absence of family support would be detrimental to his recovery programme.

   (vii) "There would be very significant obstacles to the appellant integrating into Trinidad and Tobago."

5. The grounds say: …

> [5] … the Judge has provided a summary of the appellant's circumstances, rather than identifying any obstacles to integration. Living in the UK for a long time, not having family to assist in Trinidad and Tobago and having to sort out accommodation and employment are not "very significant obstacles".
>
> [6] Reliance is placed on *Bossade* [2015] UKUT 415 [56-57] [which] sets out why not speaking a language, not having any experience of living in a country and having no family in that country, is not enough to meet the "very" significant obstacles threshold.
>
> [7] There is no evidence that the appellant has made enquiries regarding potential employment opportunities … nor any finding that UK based family would be unbale to initially assist with finances. Further, no consideration has been given to the facilitated return scheme [referred to in the respondent's decision].
>
> [8] … the Judge has failed to give adequate reasons …

6. The rule 24 response for the appellant makes these main points:

   (i) the challenge is not one of perversity; the weight to be given to various factors was up to the Judge;

   (ii) failure by a trainee hairdresser with limited and unqualified work experience to enquire about availability of work in Trinidad and Tobago "could not properly be regarded as a matter of significance";

   (iii) availability of support from the UK had not been explored at the hearing, when the appellant's mother gave evidence, indicating that this was an afterthought;

   (iv) the amount available under the return scheme was £750.00, which did not deserve any weight;

(v) not all Judges would have reached the same decision, but it "clearly falls within a reasonable range of responses" and discloses "no actual error in law".

7. Mr Diwyncz said that the issue was clear. He had little to add to the grounds. He submitted that the decision should be set aside and reversed in the UT.

8. Mr Caskie relied upon his response, summarised above, and pointed out that the appellant, now aged 21, left Trinidad and Tobago at age 8. While he would have some memory of the country, he has no family there and has not been back. Apart from 7 months in prison (his sentence having been reduced on appeal to 14 months) he has lived throughout his life with his mother and siblings. He was a young man "pulling himself back onto the rails" with family support, the absence of which made it less likely that he would be able to cope with mental health issues and to integrate successfully. The decision was short, and might have gone either way, but it was legally adequate. It was artificial to distinguish in the grounds between "circumstances" and "obstacles". The weighing of the various factors had been up to the Judge.

9. I reserved my decision.

10. I was not taken to *Bossade* or to any other case law, and nor was the FtT. Among the cases touching on this issue are *Kamara* [2016] EWCA Civ 813, *Treebhawon* [2017] UKUT 13, *AS* [2017] EWCA Civ 1284, and *Parveen* [2018] EWCA Civ 932. What I glean for present purposes from the case law is that although it presents a self-evidently elevated threshold, it is usually sufficient for a tribunal to direct itself in terms of the test; what is required is a broad evaluative judgement; and the question is whether an appellant would be enough of an insider, rather than an outsider, to have a reasonable opportunity to be accepted, to operate on a daily basis, and to build up human relationships.

11. I see no useful distinction in a case like this between setting out the relevant circumstances and identifying obstacles. The matter of family support was not explored in the FtT and is an afterthought. The Judge should have mentioned the assistance offered by the respondent on return, as it was in the decision, but the amount is such that this was not a major omission.

12. There is no doubt that there are obstacles to the appellant's integration. There could be no criticism for finding those to be significant. The decisive issue was whether they reached the elevated threshold of being very significant. The grounds specify no significant omission from the Judge's consideration. No case was advanced of significant support from family being available, and the financial assistance from the respondent would not go very far. The SSHD's challenge stops short of perversity and irrationality. The case was marginal but even if this was a generous

assessment which might not be shared by every Judge, it falls within judicial scope and discloses no error on a point of law.

13. (As an incidental observation, the appellant would be well advised not to risk making himself subject to similar assessment in the future, for which this case is not a binding precedent.)

14. The decision of the FtT shall stand.

15. No anonymity direction has been requested or made.

21 January 2022
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.