IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-000162
First-tier Tribunal No: RP/00177/2018

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 19 March 2023

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

EG
(Anonymity Order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: In Person (not represented)
For the Respondent: Mr A Tan, Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 23 January 2023

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the decision to revoke his refugee status and refuse his protection and human rights claims following the making of a deportation order against him.

2. The appellant is a national of Angola born on 23 August 1998. He entered the UK illegally on 24 October 2007 with his mother and siblings, aged nine years. His mother made an asylum claim the same day, naming him and his siblings as dependants, and they were granted refugee status on 3 December 2007 and indefinite leave to remain on 6 April 2013.

3. On 18 August 2014, the appellant was convicted of 'affray' and sentenced to a 12 month referral order. On 12 September 2016 he was convicted of possessing an offensive weapon (a knife) in public and sentenced to six weeks' imprisonment in a young offenders' institution. On 19 June 2017 he was convicted of 'conspire/ robbery' and was sentenced to 58 months' (four years and 10 months) imprisonment at a young offenders' institution.

4. The circumstances of the latter offence were that the appellant, together with two others convicted at the same time, was part of a wider conspiracy of several people who were involved in robberies of similar types of victims which included taxi drivers and food delivery drivers. They were all 17 years old at the time of the offence but 18 years of age at the time of the conviction and sentencing. The appellant participated in three of those robberies, on 27 November 2015, 3 December 2015 and 31 December 2015, in which the victims, taxi drivers, were grabbed around the neck, punched, threatened with a knife and forced to hand over their money, credit cards, phone and car keys. The appellant was arrested on 21 December 2015 and was on police bail when he committed the third robbery.

5. As a result of that conviction, the appellant was served on 20 July 2017 with a notice of decision to deport him in accordance with section 32(5) of the 2007 Act and he was invited to seek to rebut the presumption under section 72 of the Nationality, Immigration and Asylum Act 2002 that he had been convicted of a particularly serious crime and constituted a danger to the community. He responded on 9 October 2017, claiming that he had established a family and private life in the UK and that his deportation would breach his Article 8 rights.

6. On 14 November 2017 the appellant was notified of the respondent's intention to cease his refugee status under Article 1C(5) of the Refugee Convention and paragraph 339A(v) of the immigration rules on the basis that the circumstances in connection with which he had been recognised as a refugee had ceased to exist. The respondent noted that the appellant had been granted refugee status in line with his mother on the basis of her fear of persecution in Angola arising from his father's arrest in relation to his role as a colonel in the political armed separatist group Front for the Liberation of the Cabinda Enclave (FLEC). The respondent considered that the situation had changed in Angola and that young males from Cabinda were not subjected to adverse treatment by virtue of coming from that area and there was no reason why he would be at risk of adverse attention due to originating from Cabinda or due to his father's past association and activities with FLAC.

7. On 30 November 2017 the respondent notified the UNHCR of the intention to revoke the appellant's refugee status. Written representations were received from the UNHCR in response, on 21 December 2017, recommending that a full assessment of the appellant's circumstances be conducted. On 18 January 2018 the respondent notified the UNHCR that it had been decided that the appellant's refugee status would be revoked.

8. On 10 September 2018 the respondent signed a Deportation Order against the appellant and made a decision to revoke his refugee status and to refuse his protection and human rights claims. In that decision the respondent considered that the appellant was a danger to society and certified that the presumption in section 72(2) of the NIAA 2002 applied to him and that Article 33(2) of the Refugee Convention applied such that the Convention did not prevent his removal from the UK. The respondent also considered that paragraph 399A(v) of the immigration rules and Article 1C(5) of the Refugee Convention applied to the appellant and that his refugee status had therefore ceased, in light of the changed circumstances in Angola. The

respondent relied on the country guidance case of MB (Cabinda risk) (CG) [2014] UKUT 434 and the Home Office Country Information and Guidance report "Angola – treatment of persons from Cabinda province" in that respect. The respondent considered that the appellant would be able to re-adapt to life in Angola and that there were no significant obstacles to his re-integration and that he would be at no risk on return. The respondent considered that the appellant was not in need of international protection and that his return to Angola would not breach his Article human rights. The respondent considered that the appellant did not qualify for humanitarian protection and that he was excluded from a grant of humanitarian protection in any event, under paragraph 339D of the immigration rules, as a result of his conviction and sentence. As for Article 8, the respondent noted that the appellant's claimed family life was with his mother and siblings but that he did not have a partner or children in the UK. The respondent did not consider that his relationship with his mother and siblings went beyond normal emotional ties. The respondent did not accept that the appellant was socially and culturally integrated in the UK or that were very significant obstacles to his re-integration in Angola. The respondent concluded that there were no very compelling circumstances outweighing the public interest in the appellant's deportation.

9. The appellant's appeal against that decision was heard on 29 March 2021 in the First-tier Tribunal by Judge Ficklin. The appellant gave oral evidence before the judge, claiming that he had turned to offending because his family had had difficulties when they came to the UK and they had been evicted from their home and were living in temporary accommodation at the time of his offending. He said that he had fallen in with a bad crowd and had tried to focus on rehabilitation when he was in prison. His mental health had been very bad in prison and he had self-harmed and had received therapy but had not been in therapy since February 2021. He claimed to have the support of his mother, siblings and partner, as well as his mentor Mr H who was the father of one of his co-defendants. The appellant said that he had no relatives in Angola and had very little knowledge of the country and he did not know anything about his father or if he was even still alive. He had never travelled to Angola since coming to the UK. The appellant claimed to only speak broken Portuguese, which he spoke with his mother. He had been released on licence in June 2019 and had lived with his mother, but had been recalled to prison in December 2019 for breaching his licence conditions. The judge also heard from the appellant's mother, his older sister and his partner with whom he had been in a relationship since April 2019, albeit not living together.

10. Judge Ficklin noted that there was no documentary evidence of the future risk the appellant posed which post-dated his recall to prison in December 2019. He did not accept that Mr H's support, nor his family support, provided a genuine protective factor. He noted that there was a lack of medical evidence to confirm the appellant's claim about mental health problems. The judge concluded that the evidence before him did not show that the appellant had rebutted the presumption that he was a danger to the community and he therefore upheld the section 72 certification, such that the appellant was excluded from the protection of the Refugee Convention. The judge then went on to consider Article 3 and considered the country guidance in MB. He also had before him a country expert report but considered that it did not present cogent grounds for departing from the country guidance and he concluded that the appellant would be at no risk on return to Angola as a result of his past associations with FLEC. With regard to Article 8, the judge noted that the appellant's relationship with his partner was less than two years old and did not consider that the circumstances of the relationship amounted to very compelling circumstances. Neither did he consider that the appellant's relationship with his mother and siblings was

compelling, as it was a normal relationship between adults. The judge accepted that the appellant had spent most of his life in the UK and that he was socially and culturally integrated in the UK and had no family in Angola. However he did not accept that there were very significant obstacles to his re-integration in Angola and concluded that there were no factors outweighing the public interest in his deportation. The judge accordingly dismissed the appellant's appeal on all grounds.

11. The appellant sought permission to appeal against that decision to the Upper Tribunal. Permission was refused in the First-tier Tribunal. The appellant then renewed his application to the Upper Tribunal on the following grounds. Firstly, that the judge had erred in his conclusion that there was no Article 3 risk on return to Angola as he had failed to consider evidence post-dating MB, he had failed to consider the country expert report, he had failed properly to appreciate the country guidance in MB and he had failed to assess whether it was justified to depart from that guidance. Secondly, that the judge had failed to consider whether the decision to revoke the appellant's refugee status breached the UK's obligations under the Refugee Convention, in line with the guidance in Essa (Revocation of protection status appeals) [2018] UKUT 244.

12. Permission was granted on the final ground by the Upper Tribunal, although the grant of permission was not limited.

13. The matter then came before me. There was, initially, no appearance by or on behalf of the appellant at the hearing. I noted that a previous hearing on 4 May 2022 had been adjourned owing to the absence of the appellant. At that hearing it was noted that his solicitors had withdrawn from his case as they were without instructions and, since the Notice of Hearing had been served on the solicitors, it was not clear if the appellant was actually aware of the hearing. I put the appellant's case to the end of the list to give him more time to appear on this occasion, but by the time his case was called there was still no appearance. I was satisfied that the Notice of Hearing had been properly served on him and so I proceeded to hear the appeal in his absence. Mr Tan made his submissions and I reserved my decision. The appellant then arrived at 11.15am, over an hour late. I decided to re-open the hearing to give him a chance to respond to Mr Tan's submissions. Mr Tan then repeated his submissions and the appellant addressed me in response.

Discussion

14. As Mr Tan properly noted, the appellant's grounds did not challenge Judge Ficklin's decision on the section 72 certification and the judge's decision therefore stands in that regard. The main challenge to the judge's decision was in relation to the question of cessation of refugee status and risk on return, on the basis that he had failed to undertake the necessary assessment in that regard.

15. It was Mr Tan's submission that, whilst the judge had not expressly cited the case of Essa, he had effectively conducted the relevant assessment with that guidance in mind and had undertaken the assessment required in PS (cessation principles) Zimbabwe [2021] UKUT 283 . Mr Tan referred in that respect to the second paragraph of the headnote in PS:

> *"(ii) "The circumstances in connection with which [a person] has been recognised as a refugee" are likely to be a combination of the general political conditions in that person's home country and some aspect of that person's personal characteristics. Accordingly, a relevant change in circumstances might in a particular case also arise from a combination of changes in the general political conditions in the home country and in the individual's personal characteristics, or*

> *even from a change just in the individual's personal characteristics, if that change means that she now falls outside a group likely to be persecuted by the authorities of the home state. The relevant change must in each case be durable in nature and the burden is upon the respondent to prove it – see Abdulla at [76] and SSHD v MM (Zimbabwe) [2017] EWCA Civ 797, [2017] 4 WLR 132 at [24] and [36].*"

16. Mr Tan submitted that, in line with that guidance, the judge considered the general political conditions in Angola as well as the appellant's personal characteristics when considering if he was at serious risk of harm on return to Angola. I agree with Mr Tan that that is indeed the case. Clearly that is what the judge did when considering Article 3 and the risk on return, where, as part of his assessment, Judge Ficklin had regard to the most recent country guidance in MB as well as to the expert report provided by the appellant and the Home Office country information.

17. At [66] and [67] the judge had full regard to the country guidance in MB. In so far as the appellant's grounds assert that the judge did not appreciate the full ambit of the risk assessment in the country guidance in MB, it is clear that he did. The judge properly found that there was nothing in the guidance to suggest that the appellant would be at risk in Angola as a person of Cabindan origin or as a result of his family's past associations with FLEC. The judge noted at [66] that MB had replaced the country guidance that was in place at the time the appellant and his family were granted refugee status, a matter plainly relevant to a consideration of the changed political conditions in Angola.

18. The grounds assert that the judge failed to have regard to the country expert report and failed to assess whether it was justified to depart from the country guidance in MB. However that was a matter fully considered by the judge. At [68] to [71] he gave careful consideration to the expert report from Dr Schubert, noting that it relied to a large extent upon sources pre-dating MB, and to the extent that there was information from sources post-dating MB the judge gave cogent reasons why it did not provide evidence to show that a person of the appellant's profile would be at risk. Contrary to the assertion in the grounds, the judge gave full and proper reasons for concluding that the report did not persuade him to depart from the guidance in MB and that it did not demonstrate that the appellant would be at risk himself owing to him being of Cabindan origin or to his family's past associations with FLEC.

19. It is also asserted in the grounds that Judge Ficklin failed to consider relevant evidence, in addition to the expert report, which post-dated MB, in particular evidence originating from the Angolan Ministry via the respondent's Home Office Country Information and Guidance report "Angola – treatment of persons from Cabinda province" dated January 2015, as quoted in the refusal decision. Reliance is placed in particular, at paragraph 8 of the grounds, on what is asserted is evidence from the Angolan Ministry of Justice and Human Rights confirming that Cabindan returnees "*will be retained for days for questioning until the state intelligence "clears" them and release them*". However, as Mr Tan properly pointed out, the grounds are misleading in that respect since the Country Information and Guidance report, at paragraph 2.4.4, makes it clear that that quote was from an oral source and represented the personal view of a person rather than the view of the NGO referred to in the report or the view of the Angolan Ministry and, further, was an opinion which pre-dated the guidance in MB in any event and was inconsistent with the findings in MB at [115].

20. The appellant's response to Mr Tan's submissions was simply to re-state his case that he remained at risk on return to Angola, that he had mental health issues and that he had no support in that country whilst all his family remained in the UK.

However those were all matters fully and properly considered by the judge, in particular at [73] to [80]. There was nothing in the appellant's submissions to suggest that the judge had erred in law.

21. In the circumstances it is clear that Judge Ficklin addressed himself on the relevant matters in determining the appellant's appeal. Having set out in some considerable detail, at [43] to [47], the respondent's views as to the durable changes in Angola and the cessation of the circumstances previously leading to the grant of refugee status, including the references to the views of UNHCR, and having considered the response on behalf of the appellant at [52] and [55], the judge clearly went on to address the matter himself in his findings on risk on return at [66] to [71]. In so doing he had full regard to the country information and guidance relating to the general country conditions for Angola and, more specifically, for persons of the appellant's background and profile. He gave cogent reasons for concluding that the appellant would not be at risk on return to Angola and that his deportation to that country was proportionate and in accordance with the law.

22. For all of these reasons I do not find that Judge Ficklin erred in law and I therefore uphold his decision.

Notice of Decision

23. The making of the decision of the First-tier Tribunal did not involve an error on a point of law requiring it to be set aside. The decision to dismiss the appeals stands.

Signed: S Kebede
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

24 January 2023