IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Extempore Decision

Case No: UI-2023-004629
First-tier Tribunal No: PA/51846/2022
IA/04923/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 29 December 2023

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

MB
(ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Mr P W Shea, Counsel instructed by Crystal Chambers
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

Heard at Field House on 27 November 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant is a citizen of Albania who has twice been deported from the UK and twice returned in breach of the deportation order. He resists deportation on the basis, inter alia, that he faces a risk in Albania from a blood feud with a family referred to as the Tafa family.

2. The respondent did not accept that the appellant faces a risk on return to Albania (from the Tafa family or otherwise), and on 9 May 2022 refused his protection and human rights claim.

3. The appellant appealed to the First-tier Tribunal, where his appeal came before Judge of the First-tier Tribunal Khurran ("the judge"). By a decision dated 26 September 2023, the judge dismissed the appeal. The appellant now appeals against this decision.

4. The judge found that the appellant had not been honest about the claimed feud with the Tafa family. Amongst other things, the judge found that the appellant had been inconsistent about whether he had been kidnapped and tortured. The main reasons given by the judge for not believing the appellant are set out in paragraphs 28(a)- (c) of the decision. These state:

> (a)"The litany of material inconsistencies identified by the respondent in the refusal at paragraphs 70-74 and 77-81, which I found to be wellfounded and cogent criticisms of the claim to the family blood feud. The explanations in the statement do not come close to satisfying me otherwise, even to the lower standard. I consider the entire account of the family blood feud to be a fabrication such that the appellant could not keep the information consistent.
>
> (b) The appellant continued to be inconsistent in his evidence before me. When asked in cross-examination about the account of kidnap and torture in the psychiatric report, not advanced in the written statement, the appellant yo-yoed throughout. Initially he referred to scars on his body and the accuracy of the report. Whereafter he was evasive and started to repeat the history of the dispute, and finally confirming there was no kidnap/torture but rather an attempted hit and run.
>
> (c) I note the appellant's family continue to reside in Albania and whilst they are said to have moved from the area in claimed dispute, the appellant claims the Tafa family knew where they had moved to, because of the attempted hit and run as well as continuing telephonic threats. Yet when asked whether there were any threats made about him since he came to the UK, he stated all conversations with his father were about his mother's health with no mention of the ongoing threat. I find the lack of interest from the Tafa family and/or information from his father to also damage credibility. Particularly, in circumstances where it is the appellant's own case that the disputed land was abandoned by his family, such that it is not credible the Tafa family would have an abiding interest in pursuing the appellant. I consider the continuing material inconsistencies to damage credibility.

5. The grounds of appeal make the following arguments:

(a) The judge did not provide any reasons why he found the appellant's account was fabricated.

(b) The findings in paragraphs 28(a), (b) and (c) are an insufficient basis to not believe the entirety of the appellant's account.

(c) The judge's reference in paragraph 28(b) to the appellant "yo-yoing" is not adequately explained.

6. Mr Shea succinctly summarised the grounds as being that a reasonable explanation was not given for the findings made. Mr Melvin, in a helpful Rule 24 response (and in oral argument), submitted that the judge gave adequate reasons – that were rationally open to him – for not finding the core of the appellant's account credible.

7. This is a reasons challenge. I have therefore kept in mind, when considering the grounds of appeal, the well established principles applicable in such cases, as summarised in the appendix to *TC (PS compliance - "issues-based" reasoning) Zimbabwe* [2023] UKUT 00164 (IAC).

8. The appellant's submission that the judge did not provide any reasons for finding his account was fabricated is clearly without merit given that in paragraph 28 several reasons are given. The appellant may disagree with these reasons, or consider them inadequate; but plainly they are reasons. Accordingly, contending that the judge erred by not providing any reasons is an entirely meritless ground of appeal.

9. In addition to arguing that the judge failed to give any reasons, the grounds submit that the reasons in paragraphs 28(a)-(c) are inadequate. If the only reason given by the judge for not believing the appellant was the reason given in paragraph 28(a) (which, essentially, is a finding that the judge agrees with the respondent) I would find this argument persuasive, as paragraph 28(a), considered in isolation, might suggest that the judge did not independently form his own reasons and merely adopted the reasoning of the respondent. However, paragraph 28(a) is not the only reason given by the judge, and must be read alongside the other reasons. These include that (i) the appellant has been inconsistent about whether he was detained and tortured by the Tafa family (paragraph 28(b)); (ii) there has been a lack of a further interest from the Tafa family or information provided by the appellant's father about any such interest (paragraph 28(c)); and (iii) the appellant did not claim asylum until after he became subject to deportation order and previously did not resist deportation on the basis of risk from the Tafa family (paragraph 28(d)).

10. These reasons leave the reader of the decision in no doubt as to why the case was decided as it was. They also demonstrate that the principal issues in dispute were addressed. Accordingly, I am not persuaded that the decision is deficient because of inadequacy of reasons.

11. The grounds take issue with the judge using the word "yo-yoed" in paragraph 28(b). It is argued that this word is not adequately explained. I disagree. In paragraph 28(b) the judge discussed how the appellant's evidence on whether he had been kidnapped and tortured changed during cross-examination. It is clear that the judge used the term yo—yoed as a way of expressing this. No further explanation was (or is) needed.

12. In conclusion, I dismiss the appeal because this is a "reasons" challenge to a decision that contains clear reasons which enable the reader of the decision to understand why the case was decided as it was and which demonstrate engagement with the principal important controversial issues. The grounds do not identify an error of law in the decision.

Notice of decision

13. The decision of the First-tier Tribunal did not involve the making of an error of law and stands.

D. Sheridan
Judge of the Upper Tribunal
Immigration and Asylum Chamber

20.12.2023