



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2023-004821
DC/50189/2022
LD/00025/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 21st May 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE BEN KEITH

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

BLERIM PJETRI
(NO ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Mr Wilding, Counsel

For the Respondent: Mr Clarke, Senior Home Office Presenting Officer

Heard at Field House on 22 March 2024

DECISION AND REASONS

1. This is the rehearing of this case. I found an error of law by the First Tier Tribunal in its decision promulgated on 31 October 2023. I gave written reasons for that decision on 25 January 2024.
2. In that decision the Judge allowed the Appeal of Mr Pjetri against the decision of the SSHD dated 5 September 2022 to revoke his nationality under section 40(3) of the British Nationality Act 1981.
3. I set out the facts in my previous judgment. In summary Mr Pjetri argues that the removal of his British Nationality is disproportionate. Mr Pjetri is an Albanian national who obtained British nationality by deception, claiming that he was from Kosovo.

4. The FTT judge set out the facts:

“1. The Appellant claims to have first entered the UK on 28 August 1998. He claimed asylum the same day on grounds he was an unaccompanied minor from Kosovo, born on 17 July 1982, and fleeing persecution there having been beaten and detained by Serbian secret police. His claim for asylum was successful and on 12 May 1999 he was granted indefinite leave to remain in the UK as a refugee.

2. The Appellant has remained living in the UK ever since, and on 24 February 2004 applied for British citizenship through naturalisation, claiming to be of good character, and using the same personal details as he had used when he claimed asylum. Again he was successful, and on 22 December 2004, he was granted British citizenship.

3. Since then it has come to light that in fact the Appellant was not a child but an adult when he came to the UK, and he was then and continues to be now an Albanian national born on 23 October 1979, with no reason to flee from Kosovo.”

5. Mr Pjetri has accepted the deception alleged and that he obtained British nationality by deception.

6. I have previously set out the law in *Ciceri v Secretary of State for the Home Department* [2021] UKUT 238 (IAC); [2021] Imm AR 1909 which states that a judge hearing an appeal against a decision of the Secretary of State to deprive a person of their British citizenship under section 40(2) or (3) of the British Nationality Act 1981 (“the 1981 Act”) must consider (i) the “reasonably foreseeable consequences” of the decision but (ii) should not conduct a “proleptic analysis” of the individual’s removal. In addition I referred to *Muslija (deprivation: reasonably foreseeable consequences) Albania* [2022] UKUT 00337 (IAC).

7. Mr Pjetri has three children (aged approximately 10, 7 and 3). His wife has no access to public funds but was able to work and was an Albanian National. The children are British Nationals.

8. In my previous judgment I set out the facts that the FTT judge had relied on:

(a) At [53] that the Respondent would lose his job and the family would not be able to afford to live.

(b) At [54] that the home of the Respondent and his family would be placed in jeopardy because of the limbo period

(c) At [55] that the children would suffer emotional harm because of the distress at the financial situation and possible loss of home.

(d) At [56] that there will be an emotional impact on the Respondent for his loss of Nationality and identity.

9. The FTT Judge provided further reasoning but in essence it is the fact that the loss of work will lead to serious financial issues and loss of home that underpins the reasoning.

The hearing

10. At the hearing Mr Pjetri argued essentially the same matters as he did before the First Tier Tribunal. There was no additional written evidence provided about his financial situation. That issue is that the loss of nationality will lead to the loss of his employment and as a result a loss of his housing for his family, leaving them essentially destitute.

11. Mr Pjetri gave evidence and was cross-examined for a significant period of time. In my judgment he was truthful when he thought it helped his case and evasive when he thought it did not. I was left at the end of his evidence with the clear picture that he had deliberately not updated his financial information for the hearing so as to try and present himself as impoverished and without any assistance. By way of example he was asked if his position had changed from his previous written evidence and he said it had not but did not provide a single bank statement or any corroborating evidence to support that contention.

12. He was unable, and in my judgment unwilling, to provide evidence about support he might receive from family and friends. He had either not asked for help or had done and was concealing the fact that he might be provided with assistance. In any event he explained that he owned his house with a mortgage. He had purchased the house a few years ago in 2022 for £450,000. He had paid a deposit of £100,000 including a loan of £20,000 from a friend. He said he was going to lose that house if deprived of nationality. However, he accepted that he did not know what a mortgage holiday was and had not investigated any way to ease his financial responsibilities. His only position was that he would lose his housing as a result.

13. Conversely he was also adamant that he would not sell the house or make his children suffer. He accepted that his brothers had also obtained British Nationality by fraud and gone through the same process a few years ago. He said he had not discussed this issue with them as it was none of his business, I cannot accept that as true. He has clearly in my judgment discussed the matters with his family. That is relevant as he stated that his family in the UK and friends would not be able to provide him with any assistance whatsoever and that he had not in fact asked.

14. In relation to his wife's employment, he said he did not have to explain that her wages would be low but at the same time that she did not want to work. He was evasive when cross-examined about his bank accounts and how many he had. There were no up to date statements.

15. His wife gave evidence – she is presently studying to be a teaching assistant. She said she would not be able to afford to support the family and in any event was unable to get a job as a teaching assistant as she had not finished her course. She had not considered other employment or applying for access to public funds and benefits.

Argument

16. I heard submissions about the length of the limbo period. Mr Wilding relied upon a Freedom of Information response from 2021 from the SSHD saying that the time to make a decision and hence the limbo period was 257 days. It was submitted that if the period was 257 days that it would result in Mr Pjetri losing his housing and be a disproportionate interference with his Article 8 rights.
17. In response the SSHD submitted that the limbo period would be 8 weeks and that the FOI response was both outdated and not in fact dealing with the limbo period but with numerous issues.
18. I remind myself that the issue for me to decide is whether the removal of British Nationality is disproportionate under Article 8. It is for Mr Pjetri to prove on the balance of probabilities. I must assess the reasonably foreseeable consequences without straying into a proleptic assessment.

Discussion

19. The first issue is what are the reasonable foreseeable consequences of the deprivation of citizenship. The only agreement is that as a matter of law Mr Pjetri will lose his employment. The argument that as a result of losing his employment he will be unable to provide for his family and as a consequence they will lose their housing is not made out.
20. In my judgment there is no evidence that deprivation will result in anything other than Mr Pjetri losing his job and as a result the family suffering some limited financial hardship as a result. There is no evidence that he will lose his housing. He had at least £100,000 of equity in 2022 in the ordinary course of events there is nothing to indicate that his house will be repossessed. It is not even made out that he will have to miss any mortgage payments. Either through borrowing money from friends and family who have been willing to lend him substantial sums in the past or through a discussion with the bank.
21. The arguments about the length of the limbo period are based on old material from 2021 and in any event do not support the contended argument that the limbo period will be 257 days. Even if I am wrong about that there remains no evidence that a 257 day period would result in the loss of the house (or more importantly housing). His wife is able to work and could apply for access to public funds if required but has not done so. Whilst she might not be able to earn the same as Mr Pjetri it would contribute to the family income and that combined with their present stable financial position does not support the argument that they would

lose their housing. The couple have at least £100,000 of equity in their house and have friends who have been prepared previously to lend them substantial amounts of money. The argument that they are completely on their own is not made out. In my judgment they gave evidence of a strong family and friendship network upon which they could rely if they were prepared to ask.

22. Losing employment is an everyday occurrence and there is no evidence that in this case that loss of employment will result in anything but limited financial hardship.
23. For completeness there is no evidence put forward about the emotional or psychological impact on Mr Pjetri, his wife or children. I therefore find there is nothing other than the ordinary consequences of losing employment.
24. Therefore, in all the circumstances the reasonably foreseeable consequences are at their highest the loss of his employment and a period of moderate financial hardship. None of this is capable of tipping the Article 8 balancing exercise in his favour.
25. I therefore find that it is proportionate to deprive him of his British Nationality.

Notice of decision

1. The appeal of the SSHD is allowed.
2. On rehearing I find it is proportionate to deprive Mr Pjetri of his British Nationality.

Ben Keith

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

13 May 2024