



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003664

First-tier Tribunal No: PA/67880/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 06 February 2025

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

JB
(ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Harris, Counsel instructed by MBM Solicitors
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 27 January 2025

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. By my decision of 15 November 2024 I set aside the decision of Judge of the First-tier Tribunal Beg dated 5 July 2024. I now remake that decision.

Issues to be resolved

2. The appellant claims to face a risk of serious harm from a gang in the Philippines. There are three issues to be resolved:
 - (a) whether there is an ongoing risk to the appellant from the gang he fears;
 - (b) whether there is sufficient state protection; and
 - (c) whether the appellant can be expected to relocate internally.

Facts not in dispute

3. The key events giving rise to the appellant's protection claim occurred in 2013, and are not disputed by the respondent. They include the following:
 - (a) the appellant was seen speaking to police officers who subsequently arrested the brother of a gang leader of a notorious gang;
 - (b) the appellant was mistakenly thought by the gang to have reported something to the police;
 - (c) the day after the arrest the appellant's house was vandalised, a dead dog dropped outside the house, and written outside were the words 'You will pay for what you did';
 - (d) fearing for the family's safety, his parents relocated; first to a different house and then to a different province, Cavite; and
 - (e) in Cavite the head of the community told the appellant's father that armed men holding the appellant's picture had been seen looking for him.
4. Other important aspects of the appellant's account are also not disputed. These are:
 - (a) the appellant was in the military when the incidents in 2013 occurred, and he left the military in 2015;
 - (b) the appellant moved to Afghanistan in 2018, where he worked between 2018 and 2021 when evacuated to the UK;
 - (c) the appellant visited the Philippines in 2020 following his mother's death; and
 - (d) he was shown on television in the Philippines when leaving Afghanistan.

Facts in dispute

5. Although the respondent accepted the vast majority of the appellant's account, the following was disputed by Mr Tufan:
 - (a) The appellant claimed that the reason he left the military in 2015 (and the country in 2018) was that he feared the gang. Mr Tufan questioned why the appellant remained in the military, and in the Philippines, for such a long period after the incidents in 2013 if he genuinely feared the gang.

- (b) The appellant claims that during his visit to the Philippines in 2020, following the death of his mother, friends of his late mother observed gang members in a vehicle that they believed were looking for the appellant. The appellant adduced text messages from his brother in the Philippines discussing this. In the text messages, it is stated that a car was noticed parked in a vacant lot with only men on board and they were parked there every afternoon. During his cross-examination of the appellant Mr Tufan asked the appellant why he did not refer to the incident in 2020 in the asylum interview. The appellant's answer was that he forgot but realised shortly afterwards, which is why he had the text discussion with his brother and provided the information to the respondent. The appellant also noted that he referred to this incident in the First-tier Tribunal hearing. Mr Tufan questioned whether this actually occurred and submitted that even if it did occur it did not demonstrate that anyone was actually looking for the appellant.

Ongoing risk to the appellant from the gang he fears

6. Mr Tufan argued that it is not reasonably likely that the gang has maintained an interest in the appellant for over a decade such that he would face a risk from them on return. Mr Tufan gave several reasons for this.
- (a) First, the appellant remained in the Philippines from 2013 to 2018 during which time he was not attacked or even threatened by the gang. Moreover, from 2013 to 2015 the appellant was working for the military, which would have made it easy for the gang to locate him should they have wished to, but the appellant has not identified any contact with the gang during that period.
- (b) Second, the appellant's former wife and children live in a town only eight to nine hours bus ride from the appellant's home area (as stated by the appellant during his oral evidence) but at no time have they been approached by the gang.
- (c) Third, even if the appellant's account of the incident in 2020 is true, it does not indicate a threat as, on the appellant's own account, no-one was approached by the men in the car who were thought to be gang members.
- (d) Fourth, no-one from the gang has at any time during the last decade contacted the appellant's parents (or other family members) to threaten them or express their intention to target the appellant.
7. Ms Harris argued that it is clear from the incident in 2020 that the gang remains interested in the appellant. She submitted that the appellant has been consistent in his evidence and there is no reason to not believe this aspect of his account (which is corroborated by the text messages between the appellant and his brother) when so much else has been accepted. She contended the incident in 2020 demonstrates that the appellant and his family and friends genuinely fear that the gang remains interested in the appellant. She noted that this was of sufficient concern for the appellant to have made considerable efforts to avoid being detected by the gang when he visited the Philippines in 2020. She highlighted that the appellant had provided evidence that he was shown on television in the Philippines which would make him identifiable to the gang.

8. Even though I accept that the appellant is being truthful about what he believes to have occurred in 2020, I am not persuaded that it is reasonably likely that the gang has maintained an ongoing interest in the appellant. This is because, according to the appellant's own account, the gang, despite being powerful and influential, did not attack (or even contact) him between 2013 and 2018, whilst he was living in the Philippines; and at no point has the gang contacted his family in the Philippines. It is, in my view, not plausible that the gang would target the appellant on return, when so much time has passed without them taking any steps against the appellant or his family, including during the five year period when the appellant lived in the Philippines.
9. The appellant's account of what occurred in 2020 does not undermine my conclusion. As argued by Mr Tufan, the appellant does not claim to actually know that those in the car were gang members – his fear that they were is based on friends of his late mother identifying them as such. Moreover, according to his own account, the men in the car did not approach anyone or take any steps to locate him (e.g. by asking people where he was). I do not consider it reasonably likely that these men were in fact members of a gang seeking to harm or locate the appellant given that they made no contact with anyone in an effort to locate him.
10. I recognise that the lower standard (reasonable degree of likelihood) applies in this case and I have assessed the question of whether the appellant faces a risk with this standard firmly in mind. In my judgment, although the appellant may genuinely fear the gang who threatened him in 2013 – and there is a real risk that he would live in fear of them in his home area; for the reasons given by Mr Tufan (as summarised in paragraph 6), I am not satisfied that it is reasonably likely that his fear that the gang remains interested in him is objectively well-founded.

Sufficiency of Protection

11. The appellant did not provide any objective evidence about shortcomings in state protection for those threatened by gangs in the Philippines. The appellant instead relies on evidence relating to other areas and asks me to infer from this that state protection from gang members is inadequate.
12. The appellant relies on the respondent's country and policy note on women fearing domestic violence dated March 2023 ("the CPIN"). Ms Harris drew attention to sub-paragraphs 12.1.1 and 12.1.2 which quote Australian sources on the effectiveness of police in the Philippines. She noted that it is stated that:

"While police are generally competent, they lack resources and capacity, and have poor coordination with other agencies"

and that:

"The PNP has systemic problems with corruption and impunity, including petty corruption. Local sources report the extent to which police are corrupt varies throughout the police force and depends on the individual officer. Sources note senior police may be more likely to be involved in serious corruption, due to the patronage-driven nature of Philippines politics."

13. Ms Harris also placed reliance on a "Philippines 2023 Human Rights Report" by the United States Department of State. She noted that the executive summary

refers to problems with police and judicial corruption; and that there are concerns about police impunity. She also highlighted that there are references within the body of the report to corruption.

14. The difficulty with the argument advanced by Ms Harris is that none of the evidence she has referred to concerns the influence of gangs. It is apparent from reading the 2023 Human Rights Report as a whole that it is primarily concerned with politically motivated killing and how corruption impacts the investigation of this by the police and judiciary. It is not a report about police corruption as it relates to gangs and any reference to that is tangential to the main points raised in the report. Likewise, the extracts from the CPIN identified by Ms Harris relate to an entirely different context and do not provide evidence that assists in understanding the extent to which corruption would affect a person in the appellant's circumstances.
15. There is an absence of evidence to support the appellant's contention that there would be a lack of sufficient state protection for a person in his circumstances. Accordingly, I am not satisfied, based on the evidence that is before me, that the appellant has discharged the burden of establishing that, on return, there is a reasonable degree of likelihood that he would not be able to benefit from sufficient state protection.

Internal Relocation

16. In the refusal decision, the respondent states that the Philippines is a large country and that there are cities to which the appellant could relocate that are a substantial distance from Manila. The refusal letter notes, for example, that Davao City is around 1,467 kilometres from Manila.
17. There is nothing in the objective evidence that is before me to indicate that the appellant cannot avoid those he fears by moving to another part of the country, including Davao City, which is a very considerable distance away from his home area.
18. Ms Harris submitted that it would be unduly harsh for the appellant to live in fear and in hiding, which, she contended, would be the case anywhere in the Philippines. I am not persuaded that this is a correct characterisation of how the appellant will live. It is of note that during cross-examination, when asked why his ex-wife and children had not been approached by the gang, the appellant's answer was that they had moved to a location eight - nine hours away (by bus). When asked why he could not move to a location a similar distance away, the appellant's first response was that he would not be able to find a job or support in such a location. It was only when specifically asked that he added a further reason which is that the gang have influence throughout the Philippines. The appellant's answers indicate that his primary concern about internally relocating, even to a location that is relatively close, is the economic difficulties he might face. I do not accept that he would live in hiding (or fear) in Davao City, or in another part of the country, that is a significant distance from his home area.
19. There is no evidence to indicate that the appellant would be unable to find employment and accommodation in Davao City (or elsewhere) and I am satisfied that it is not unreasonable or unduly harsh for him to relocate to avoid those he fears.

Conclusion

20. For the reasons given above, I do not accept that there is a real risk that the appellant will face a risk of harm on return. I therefore do not accept he has a viable protection claim. This is sufficient to dispose of the case.
21. However, even if I am wrong, and the gang who threatened the appellant in 2013 have maintained an interest in him, there is still not a reasonable degree of likelihood that he will be harmed by the gang because (a) he can avail himself of state protection and/or (b) avoid those he fears by relocating to another part of the country, such as Davao City, which would not be unreasonable or unduly harsh.

Notice of Decision

22. The appeal is dismissed.

D. Sheridan

Judge of the Upper Tribunal
Immigration and Asylum Chamber

4 February 2025