



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/11502/2017

THE IMMIGRATION ACTS

Heard at Bradford
On 9 July 2018

Decision & Reasons Promulgated
On 27 September 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

MS
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Pickering, instructed by Parker Rhodes Hickmotts, Solicitors
For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, MS, was born in 1995 and is a male citizen of Iran. He arrived in the United Kingdom in May 2015 and claimed asylum that month. He was refused by a decision of the Secretary of State dated 22 December 2017. He appealed to the First-tier Tribunal (Judge Heatherington) which, in a decision promulgated on 14 December 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The first ground of appeal refers to a comment made by the judge in his decision at [7.1]: "It was of note that the appellant's bundle included a large number of documents (pages 9-237) upon which Miss Cleghorn said she did not rely". The grounds of appeal (drafted by Miss Cleghorn) assert that this is an inaccurate record of what Miss Cleghorn had said. She had, in fact, said that it was not necessary to take the judge

through the background material because the respondent's Country of Origin Information Report (COIR) of February 2016 included all the necessary extracts from the relevant sources. Secondly, the grounds complain that the judge relied on "seriously outdated country guidance" and that the judge should have relied on "judicial knowledge" that the country guidance is no longer relevant.

3. This ground has no merit. It is not clear to me what point is being made regarding the judge's scrutiny of the appellant's documents. I am satisfied that the judge has considered all relevant evidence in reaching his decision. As regards country guidance, it is not clear that the judge was ever asked by Miss Cleghorn to depart from country guidance issued by the Upper Tribunal during the course of the First-tier Tribunal hearing. Country guidance remains relevant until it is superseded and, absent a challenge by either party, the judge cannot be criticised for relying upon extant country guidance. It is wholly unreasonable to suggest (as the grounds of appeal appear to do) that, whilst no submission that the judge depart from country guidance was made at the hearing, he should nevertheless have used his "judicial knowledge" to depart from it.
4. Secondly, the appellant complains that the judge commented that, "The appellant has not provided corroboration for any part of his account to support his claim". The appellant complains that he was not required to provide corroboration of his asylum claim. That argument has no merit. It is clear from a reading of the decision that the judge was referring to the absence of an arrest warrant which the appellant said had been issued against him. Indeed, at [9.6] the judge records that there was "no evidence of an arrest warrant summons or any details of documentation to prove the basis of his fear". If such documents existed, then it was reasonable to have expected the appellant to make some effort to obtain the original documents or copies.
5. As regards the appellant's screening interview, the judge wrote that he "rejects the appellant's claim that he did not provide clear and more detailed information at the screening interview because he was asked to be brief". The point is advanced in the grounds that the screening interview is a brief résumé of an individual's reasons for seeking asylum and that the particulars of such a claim are only advanced in subsequent statements and at a substantive asylum interview. Further, the appellant claimed to have suffered head injuries having fallen from a lorry and this had affected his ability to give cogent evidence.
6. I accept Mr McVeety's submission that the judge's reference to the screening interview forms only a very small part of his analysis of the appellant's evidence and of his conclusions that the appellant's account was not reliable. In a detailed and cogent decision, the judge has given comprehensive reasons for rejecting the reliability of the appellant's account. The inconsistencies between the screening interview and subsequent evidence forms only a small part of the discrepancies identified by the judge.
7. The judge stated that "there was no evidence to support the claim the appellant faces execution for illegal activities allegedly conducted". Again, the grounds erroneously assert that it was for the judge to have "judicial knowledge" that the appellant would

face execution for the activities which he claimed to have participated in. Frankly, that is nonsense. It is for the appellant to adduce evidence to discharge the burden of proving his case, including the likely punishment he would receive for activities he claims to have undertaken. In any event, the ground is nugatory; the judge found that the appellant had not carried out the activities at all.

8. In his analysis, the judge noted that the appellant failed to give answers to questions put to him at the interview and that the judge had to adjourn the hearing briefly after Counsel had confirmed that the appellant had no difficulty with the interpretation provided. This ground of appeal is wholly without merit. The ground appears to suggest that the appellant's long silences and the brief adjournment were required because he had fallen from a lorry and injured his head. There is no medical evidence at all to support that assertion. Indeed, at the hearing and following a brief adjournment, Counsel indicated that the appellant was able to proceed with cross-examination and had no problems with the interpreter. The judge has stated that, "I attach no weight to the suggestion that the appellant has no memory loss". That was an entirely reasonable finding available to the judge in the absence of any evidence at all that the appellant's apparent inability to answer questions promptly was the result of a physical trauma.
9. Finally, the appellant remained for a period of time in Hungary without making a claim for asylum, a fact noted by the judge at [9.12]. The grounds complained that the judge should not have attached weight to that fact given that the appellant was an illegal immigrant in Hungary at a time when the country "viewed itself as being at saturation point and was avoiding at all costs the processing of asylum claims". There was no evidence adduced by the appellant to support that assertion. Indeed, as Mr McVeety noted, the appellant had passed through Hungary at a time before the government of that country introduced border restrictions affecting refugees.
10. In all the circumstances, the grounds of appeal are without merit and the appeal is dismissed.

Notice of Decision

This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 3 AUGUST 2018

Upper Tribunal Judge Lane

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 3 AUGUST 2018

Upper Tribunal Judge Lane