



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/11435/2019 (P)**

THE IMMIGRATION ACTS

**Decided under rule 34
On 20 May 2020**

**Decision & Reasons Promulgated
On 22 May 2020**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**LS
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. This decision has been made on the papers, under Rule 34 of The Tribunal Procedure (Upper Tribunal) Rules 2008, further to directions issued by Upper Tribunal Judge Bruce sent out on 9 April 2020.

2. The appellant is a national of Afghanistan born on 1 June 1993. He claims to have arrived in the United Kingdom on 18 June 2018 clandestinely. He claimed asylum on 20 June 2018 and was served with removal papers as an illegal entrant. His claim was initially refused on 18 December 2018 on third country grounds, with an intention to return him to Bulgaria where he had previously claimed asylum, but the respondent subsequently agreed to consider his claim in the UK. His claim was then considered and refused on 12 November 2019.

3. The appellant claims to be from Baghlan Province in Afghanistan and to have worked with his father as a farmer. He claims that his father worked for the Ministry of Agriculture and also assisted the Taliban by allowing them to hide weapons in his house. The house was raided one day by the Afghan authorities in May 2016 and the weapons were discovered and explosive devices found. There was a fight between the authorities and his family and his father and maternal uncle were killed. The appellant was wounded during the raid from an explosion and was taken to hospital where he stayed for 20 days receiving treatment for shrapnel injuries and a broken leg and he then spent two months at his uncle's friend's house before leaving the country. The Taliban blamed the appellant and his brother for reporting the weapons to the authorities and visited his home whilst he was in hospital. His mother has, since his departure, received warning letters from the Taliban trying to locate him and his brother. As a result, he fears the Taliban as well as the Afghan authorities who are also looking for him.

4. The respondent, in refusing the appellant's claim, found there to be inconsistencies and discrepancies in his evidence and did not accept his account. No weight was given to photographs apparently depicting his deceased father and uncle and showing his own injuries. The respondent considered that in any event the appellant could safely and reasonably relocate to Kabul and that the Taliban would not be motivated to pursue him there. The respondent concluded that he would not be at risk on return to Afghanistan and that his removal to that country would not breach his human rights.

5. The appellant appealed against that decision. His appeal was heard by First tier Tribunal Judge Buckwell on 24 December 2019. The appellant submitted a bundle of documents for the hearing which included statements from himself and a family friend, a letter from his GP, warning letters from the Taliban, an arrest warrant from the police command in Baghlan, a statement from the village elders, a letter from the Ministry of Agriculture to his father terminating his employment, his father's Afghan ID card and photographs of his deceased father and uncle and of the injuries to his leg. Judge Buckwell did not accept that the documents were genuine, noting that they had only recently been produced, and he did not accept the appellant's account to be a credible one. He concluded that the appellant would not be at risk in his home area and that he could, in any event, safely and reasonably relocate to Kabul. He dismissed the appeal on all grounds, in a decision promulgated on 29 January 2020.

6. Permission to appeal was sought by the appellant on the grounds that the judge failed to consider and engage with material documentary evidence and failed to give adequate reasons for rejecting the documentary evidence, and that he failed to carry out an assessment of "very significant obstacles" under paragraph 276ADE(1) in light of the medical assessment of PTSD.

7. Permission was granted on 1 March 2020.

8. In light of the need to take precautions against the spread of Covid-19, the matter was not listed for a hearing and the case was reviewed by an Upper

Tribunal Judge on 3 April 2020. In a Note and Directions sent out on 9 April 2020, Upper Tribunal Judge Bruce indicated that she had reached the provisional view that the question of whether the First-tier Tribunal's decision involved the making of error of law and, if so, whether the decision should be set aside, could be made without a hearing. Submissions were invited from the parties.

9. Neither party has made any submissions nor provided reasons for there to be a hearing in accordance with [3] of UTJ Bruce's directions. In the circumstances I see no reason why the error of law question cannot be determined without a hearing and do not consider that any issues of procedural unfairness arise from doing so.

10. The appellant's grounds challenge the judge's consideration of the documentary evidence, both in respect to a failure to engage with the contents of the documents and a failure to give adequate reasons for according the documents no weight. The grant of permission was made in particular on the basis of the judge's adverse findings being limited to the late production of the documents. However, I do not find the grounds to be made out.

11. The judge's decision is a thorough and comprehensive one and it is plain from his detailed record of, and references to, the oral and documentary evidence that he gave full consideration to all the evidence presented before him and fully engaged with the evidence. At [40] he particularised the documents within the bundle; at [51] to [57] he recorded the appellant's oral evidence in response to the documents being put to him; and at [103] he confirmed that he had taken into account all the evidence whether or not specifically referred to. It is clear from his findings from [105] to [118] that the judge fully and properly assessed the documents together with the evidence as a whole in accordance with the guidance in Tanveer Ahmed [2002] UKIAT 439. He was not required to make specific reference to, and assess the contents of, each document individually. What mattered was that he had regard to the documents and assessed them alongside the oral evidence, which is precisely what he did. Accordingly, I reject the assertion in the grounds that the judge failed to engage with the documentary evidence.

12. As to the assertion in the grounds of appeal, and the indication in the grant of permission, that the judge's conclusion on the weight to be accorded to the documents lacked adequate reasoning, again I find that to be without merit. Contrary to the assertions made, the judge was fully and properly entitled to draw adverse conclusions from the late production of the documents. The documents were dated from 2016, but yet aside from the photographs, were not produced until just before the hearing in the appeal bundle. The judge considered the appellant's explanation for the late production, at [57] and [107], and was entitled to make the adverse findings that he did in that regard. In any event, that was not the sole reason given by the judge for according the documents no weight. The judge gave detailed and cogent reasons at [108] to [118] for finding the appellant's account of his experiences in Afghanistan to lack plausibility and credibility and it was as a

result of his overall concerns that he accorded the weight that he did to the oral and documentary evidence, as he was entitled to do.

13. The appellant's grounds make specific reference to the medical letter stating that the appellant suffered from PTSD and assert that the judge failed to consider that document, or the arrest warrant. With regard to both, I refer back to my views expressed above and reject the assertion that the documents were not considered. I would make a further observation with regard to the medical letter, which is at page 47 of the bundle, that the letter refers to the appellant's condition involving flashbacks from being tortured by the Taliban, yet the appellant's account in his claim made no reference to any such treatment. In any event, the judge considered at various parts of his decision the diagnosis in that letter of PTSD and took that into account. I refer in particular to [45], [54] and [94], as well as the judge's detailed consideration of the appellant's injuries said to have contributed to that condition, from [109]. As for the assertion in the grounds that the judge failed to consider the diagnosis of PTSD in the context of paragraph 276ADE(1) of the immigration rules, it is clear from the appellant's statements and the judge's detailed summary of the submissions made on behalf of the appellant, that that was not a matter specifically advanced at the hearing. In any event the judge plainly took account of all relevant matters when considering Article 8 within and outside the immigration rules, at [121] and [123], and there is nothing in the evidence produced before him, particularly the medical letter at page 47, which could possibly have established an Article 8 claim.

14. Accordingly, I find no merit in the assertion in the grounds and the grant of permission that the judge failed fully and properly to engage with the documentary evidence. The judge was fully entitled to accord the weight that he did to the evidence and his conclusions in that regard were supported by full and cogent reasoning. The judge was entitled to reach the adverse conclusions that he did and to dismiss the appeal on the basis that he did. He made no errors of law.

DECISION

15. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Anonymity

The anonymity direction made by the First-tier Tribunal is maintained.

Signed: S Kebede
Upper Tribunal Judge Kebede

Dated: 20 May 2020