



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/00702/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 30th June 2017

Decision & Reasons

**Promulgated
On 5th July 2017**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**B K
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E Raw, Counsel instructed by Kilby Jones Solicitors LLP

For the Respondent: Mr P Armstrong, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellant, with permission, in respect of a Decision and Reasons of Judge Baldwin promulgated on 19th April 2017 following a hearing at Hatton Cross on 5th April 2017. The Appellant, now 18, is a citizen of Albania who arrived in the UK when he was 16 and claimed asylum immediately. He made a claim to have been trafficked. Initially the first assessment by the NRM was such that he was accepted for further assessment. The standard of proof of course is very

low for that first assessment. On the second, more detailed assessment, his claim to have been trafficked was rejected. There followed a refusal by the Secretary of State of his Protection claim. His protection claim was based on a blood feud that the Appellant claimed his father was involved in.

2. The Judge dismissed the appeal finding the claims to be without credibility. The grounds attack several aspects of that judgment. The main ground is that the first adverse credibility point is unjustified and wrong and tainted the Judge's view of this Appellant and infected all the other adverse findings. The finding referred to is in relation to an apparent inconsistency which the Judge found to be an untruth about whether or not the Appellant was having counselling. There was some confusion in the evidence because the Appellant did claim in his statement to be suffering from depression and to having been referred for counselling. In the asylum interview he refers to having some counselling from his social worker in relation to living in the UK rather than anything to do with the mental health issue. The Judge seems to have confused the two and thought that the Appellant was claiming that he was receiving counselling from a social worker when a letter from the social worker said he was not and that no mental health issues were mentioned. The Judge found that meant that the Appellant was being untruthful about his treatment. That is wrong and it is a confusion of the evidence. He was right to say there was no evidence of a mental health issue which the Appellant had claimed, but he was wrong to say he had been untruthful about receiving counselling. Whether that error is sufficient to upset the Decision and Reasons in its entirety remains to be decided.
3. The second ground is that the Appellant was unjustly criticised for not producing back-up e-mails attached to various e-mails that he did produce. That is a disagreement with the Judge's conclusions. It is not the case that he could not possibly have provided any of this evidence because his evidence was he was in contact with his uncle and his uncle could have been asked to assist. He was represented and not producing the entirety of the e-mails was something the Judge was entitled to hold against him.
4. The Judge is next criticised for accepting the evidence of the Embassy in Tirana that the Appellant travelled from Albania in the company of his father. It is argued that that whilst there is information given by the Embassy about the Appellant having travelled and his passport and his photograph, the only information about his father was his name. I cannot see an error of law there because it is quite apparent, even on the evidence adduced on behalf of the Appellant in the form of an expert report from Dr Korovilas, that the airport has reliable scanning of biometric passports. The expert said that the evidence that the passport of his father's was used at the airport was reasonably reliable. The expert does not really help the Appellant in saying simply "slightly too much weight had been given to information provided to the British Embassy". The Judge was entitled to attach weight to that evidence from the Embassy.

5. The Judge also found against the Appellant on the basis of his claim that his father was unwell at the time he travelled, when that evidence quite clearly, and for the reasons the Judge gave, was unreliable, saying as it did at the same time that he should have ambulatory treatment and bed rest.
6. The other criticisms are that the Judge erred in requiring corroborative evidence, arguing that the Judge is not entitled to expect corroborative evidence and it was unreasonable in the circumstances of this Appellant to expect it. However, as I have previously said it was the Appellant's case that he is in contact with his uncle who could have assisted – as he did with the emails.
7. There are other adverse findings that the Judge makes, quite apart from those mentioned above. He simply did not find it credible that if the Appellant is in touch with an uncle he is not in touch with other family members. The Judge noted that it is highly likely that his father is still in Albania and that evidence simply does not support the Appellant's claim to be in fear of reprisals from another family in connection with a blood feud. It is also of note that there is evidence from Albania that no such blood feud existed and the Judge was entitled to attach weight to that.

Notice of Decision

8. Overall therefore I find that this Decision and Reasons, whilst it does contain an error caused by confusion about the evidence in relation to counselling, also contains numerous reasons open to the Judge on the evidence as to why this claim was totally without credibility and I find therefore that there is no material error of law and the appeal to the Upper Tribunal 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 his 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 4th July 2017

C J Martin
Upper Tribunal Judge Martin