



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number PA/10312/2017

THE IMMIGRATION ACTS

Heard at Field House
On 25th June 2018

Decision and Reasons Promulgated
On 31st July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

KLEOPARDA [I]
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr J Collins (Counsel, instructed by Sentinel Solicitors)
For the Respondent: Ms A Everett (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant's asylum appeal was heard by First-tier Tribunal Judge Burns at Birmingham on the 8th of January 2018 and dismissed for the reasons given in the decision promulgated on the 11th of January 2018. The Appellant's initial application for permission to appeal to the Upper Tribunal was refused but the renewed application granted by Upper Tribunal Judge Chalkley on the 12th of March 2018. That grant led to the hearing before me.
2. The findings of fact start at paragraph 33 and the decision was then broken down with the issues dealt with individually. The Judge made extensive adverse credibility findings which are set out and explained the Judge identifying significant inconsistencies and attaching weight to the Appellant's delay in making the claim. The claim to be at risk from a blood feud was rejected with the Judge noting, amongst other findings, that the Appellant's sisters live in Albania. The

Judge also rejected the claim that the Appellant would be at risk a single mother noting that contrary to traditional values the Appellant is well educated and ran her own business.

3. The argument that there is an error of law turns on the diagnosis of depression and anxiety, the Judge having treated the Appellant as a vulnerable witness, and the ability of the Appellant to return to and live in Albania. Although the Judge observed that the Appellant's health would cause her difficulties in returning to Albania and that return would be a challenge it is argued that the Judge had not adequately factored this into the context of the Appellant returning as a single mother under "kurva".
4. The grant of leave by Upper Tribunal Judge Chalkley does not give any more than a basic observation that there may be some merit grounds particularly in relation to paragraph 276ADE(1)(vi).
5. In submissions it was argued that it was not sufficient for the Judge to "have regard to" the as mental health. It was accepted that the Judge had referred to the medical evidence. With regard to return it was accepted that the Appellant had been the subject of domestic violence and her child would be disapproved of. In essence the circumstances amounted to very significant obstacles. Mr Collins referred to AB and AM and TD and AD, referred to the Judge in paragraph 49 of the decision, asserting that the factors were to be assess cumulatively.
6. At the start of the Home Office submissions I indicated that I was satisfied that there was no error in the decision with regard to the Appellant's mental health and submissions were then confined to the remaining aspects. For the Home Office it was argued that the Judge had looked at all aspects of integration and the conclusion was sustainable. It had not been overlooked that there would be difficulties and there were no insurmountable obstacles. The Appellant had challenges with her mental health and as the carer of a small child but she was highly educated and that would affect the outcome.
7. The Judge's approach to the Appellant's vulnerability was set out in paragraph 5. The medical evidence was referred to in paragraphs 18 to 22 and her vulnerability considered in paragraph 33. It is not the case that the Judge baldly referred to having "regard" to it, the relevant factors were set out and properly considered. There were factors that affected the assessment of the Appellant's credibility that were independent of the medical issues raised, there were inconsistencies identified by the Judge, and these were open for the reasons given. In paragraph 44 aspects of the Appellant's account were accepted, the Judge again referring to the Appellant's medical record.
8. It is not a fair criticism that the Judge did not sufficiently consider the Appellant's mental health. It is apparent from the various references to the evidence and the steps taken by the judge in the conduct of the hearing that the factors raised were at the forefront of the Judge's conduct of the hearing and also properly applied in the decision making process.
9. The Judge did not refer to kurva by name but that is not an error. The important question is whether the Judge considered the practical effect summed up by the term and came to a sustainable conclusion. The bulk of the consideration of the Appellant's circumstances on return in the light of societal attitudes to single mothers is found in the section of the decision on the issue of social attitudes and the family disowning her. In paragraph 53 the Judge gave reasons for finding that the Appellant could return to Albania and explicitly considered the factors raised in AB and AM.

10. The Judge considered the Appellant's ability to live in the UK by herself and the support that is available in Albania. Those findings were open to the Judge and although the explicit word was not used the contents of the decision show that the Judge considered substantively the issues that had to be addressed. The earlier findings were to be factored into the article 8 assessment and that did not require laborious repetition – they could be taken as read and their consideration as being implicit.
11. On a fair reading of the decision considered overall and read as a whole I am satisfied that the decision of Judge Burns does not contain an error of law and that the challenge is without merit. In the circumstances the decision

CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

Fee Award

In dismissing this appeal I make no fee award.

Signed:


Deputy Judge of the Upper Tribunal (IAC)

Dated: 23rd July 2018