



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12584/2016

THE IMMIGRATION ACTS

Heard at Manchester  
On 15th November 2018

Decision & Reasons Promulgated  
On 10<sup>th</sup> December 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

MISS Z K L  
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Miss Hashmi, Counsel, instructed by Lei Dat and Baig,  
Solicitors

For the respondent: Mr A Tan, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant has permission to appeal the decision of First-tier Tribunal Judge Raikes. In a decision promulgated on 23<sup>rd</sup> July 2018 the Judge dismissed her appeal against the refusal of her claim for protection.

2. She is a national of Angola, born on 9 May 1987. She claimed to be at risk if returned because of her political opinions, including her involvement with the Movementio Revolucionario.
3. She said she joined Movementio Revolucionario in 2010 whilst at University. She attended a demonstration on 7<sup>th</sup> March 2011 and was detained by the authorities. She was assaulted by them and woke up in hospital, having lost the sight of an eye. She was discharged.
4. On 17<sup>th</sup> May 2013 she said she took part in another demonstration. Following which she was detained for 3 months. Whilst in custody she was abused, including being raped. She was brought to court on 2 occasions and then released on 10<sup>th</sup> August 2013 due to lack of evidence.
5. On 20 June 2015 she was with her friends when the police appeared and started to arrest people. She managed to escape. She later learnt that the authorities had been at her home and taken various items, including her computer. She believes one of her friends who was detained must have informed. Fearful of what would happen she moved to a friend's house and then on 21 April 2016 flew to the United Kingdom using a passport which did not belong to her. She claimed protection the following day.
6. The respondent did not accept her claim of involvement with the Movementio Revolucionario. Country information indicated the existence of such a group but it was not formed until 7 March 2011 whereas she claimed that she joined in 2010. The country evidence did indicate the group held a demonstration on the day of its formation and went to Largo Square as she said. However, the respondent question why she would be singled out as she described. The appellant had not provided evidence to confirm her account as to how she lost her eye yet at her substantive interview she said there were medical records.
7. The respondent then said on 17 May 2013 she was heading for Largo Square with members of the Movementio Revolucionario when the police arrived. They started to attack the group and she was arrested and detained for 90 days. Whilst the respondent found objective evidence of such attacks around this time no reference could be found an incident that day.
8. She referred to another incident on 20<sup>th</sup> June 2015 when she said her colleagues were detained by the police and she believed informed on her subsequently. The respondent did find evidence in the media of such an incident but the appellant could have learnt this. She said she learnt the police had been to her home asking about her and told people if they found her, they would kill her. The respondent felt it was not credible that they would say this.

## The First tier Tribunal

9. First-tier Tribunal Judge Raikes considered the appellant's credibility and concluded her account was inconsistent and implausible. The judge noted that the country information confirmed the existence of the revolutionary group named by the appellant. However, the judge found her credibility was damaged because the group had not been formed at the time she said she joined.
10. Whilst the country information confirmed a demonstration took place on 7<sup>th</sup> March 2011 this information was in the public domain. The judge also commented on the appellant's account of losing her eye, pointing out that this significant incident was not mentioned at her screening interview. When she referred to the incident in her substantive interview she said medical records existed. The judge recorded she had made no attempt to obtain these to support her claim. The appellant said she was afraid to get in touch with the people in Angola which was not accepted. Furthermore, the judge questioned why she would have been targeted on that occasion only to then be released from hospital.
11. Regarding the demonstration on 17<sup>th</sup> May 2013 following which she said she was detained and raped, the country information did not indicate a demonstration on that date though other dates were recorded. Furthermore, the judge found it implausible that she would have been released as claimed.
12. Regarding the 20<sup>th</sup> June 2015 incident the judge did not find her account credible. Whilst the country information confirmed arrests that day this information was in the public domain. There was no reference to it at her screening interview. Furthermore the country information indicated that the individuals were released. It was not felt credible that the police would say to the people they intended to kill her.
13. The appellant had produced an identity card as well as a student card. The judge found her evasive about the source of the documentation. The judge did not find it credible she would be able to stay undetected with a friend for 9 to 10 months if sought. It was also pointed out that she was able to leave through the airport without any difficulties.
14. In summary, the judge did not find the appellant credible and did not accept she faced any risk by reason of being a member or supporter of the group she described.

The Upper Tribunal.

15. Permission to appeal was granted on the basis it was arguable the judge had required corroborative evidence and had applied too high a standard of proof.
16. Miss Hashmi opened the appeal by stating that whilst the judge at paragraph 7 said that the burden of proof upon the appellant was a low one the judge then expected her to obtain evidence, for instance, about her medical treatment in relation to her eye. At paragraphs 30 to 32 there was reference to corroborative evidence. Furthermore, the respondent had accepted that a demonstration had taken place on 7<sup>th</sup> March 2011 yet the judge discounted this, saying that the appellant could have learnt this information from media articles. She submitted the judge was wrong in treating an undisputed matter in this way.
17. She also pointed out that the appellant had referred to a second incident on 17 May 2013. The respondent could not find any country information on this. However, there was country information of an incident on 27 May 2013. Not all are recorded.
18. In response, Mr Tan points out that the judge self-directed as to the lower standard of proof at the outset. He referred me to paragraphs 28 and 29 of the decision where the judge saw no evidence to support her claim of having joined the organisation in 2010. This reflects paragraph 10 of the refusal letter. The judge then set out over a number of paragraphs why he concluded the appellant was not at risk on return. At the end of paragraph 30 the judge commented that the details of what she said took place in 2011 were wholly unsubstantiated by her, either initially at screening or subsequently by the production of evidence. At 5.4 of her screening she had been asked specifically if she had ever been detained and she only said on one occasion only. The judge refers to the screening and the failure to mention the 1<sup>st</sup> claimed incident at paragraph 31 of the decision.
19. Regarding the reference at paragraph 32 to medical records the judge set out her explanation for not producing these but questioned why this was so. By the time of the appeal hearing the appellant had been in the United Kingdom over a year. Seven years had elapsed from the claimed injury occurring. TK (Burundi) [2009] EWCA Civ 40 held that a Judge in assessing credibility commits no error of law in relying on the fact that there is no independent supporting evidence where there should be and there is no credible account for its absence. Mr Tan pointed out that whilst the appellant's representatives and raise the question of data protection, there was nothing to indicate this was an issue in Angola or that the appellant could not have obtained the information by other means. He also referred me to paragraph 33 where the judge questioned why she would have been targeted in the 1<sup>st</sup> claimed

incident. I was referred to paragraphs 34 through to 36 where the appellant had suggested she was suspected of involvement in a possible coup yet on her account was released.

20. He said there were a number of reasons why her evidence was not considered credible, including the fact that the country information indicated that typically those detained were released very shortly afterwards. At paragraph 37 the judge noted that the appellant made no reference to the incident of 20 June 2015 at screening interview. Paragraph 39 to 44 of the decision dealt with her claim to have hidden for 9 months and then leaving the country from the main airport. Mr Tan submitted that when the decision was considered in its entirety the judge had advanced sound reasons for dismissing the appeal.

### Conclusions

21. The judge at paragraph 7 correctly points out that the burden of proof is upon the appellant and then referred to the low standard of proof applicable. The judge correctly refers to a reasonable degree of likelihood. The judge states all of the evidence was considered in the round.
22. Central to the claim was the appellant's credibility. The judge has given a number of reasons for not finding her credible. At screening there was no reference to the claim that she had lost her eye as a result of her activities. It is reasonable to ask why she would omit such a significant event. Furthermore, she only refers to being arrested on one occasion whereas her subsequent claim related to three incidents. There is also no explanation as to why she would apparently be singled out from a number of demonstrators. There were inaccuracies in dates in relation to when she joined the organisation and when one of the altercations took place. I do not find these inconsistencies are remedied by a subsequent corrective statement.
23. At her substantive interview she was questioned about the loss of her eye and said there were medical records but she was unable to produce them. It would be reasonable to expect a hospital would keep medical records and the appellant had confirmed this. The records would have been very useful in dating the incident and also may have referred to the cause. The reference by the judge to the medical records is not in the context of requiring her to provide corroboration but is simply raising the reasonable question about why material evidence is absent.
24. As stated by Mr Tan, other valid reasons were advanced for the dismissal of the appellant's claim. The claim made was one which could have been made from information the appellant gathered through the media. In this context the areas where there were gaps or mistakes is all the more significant.

25. I find the judge has provided adequate reasons for finding her not to be credible. This is not simply a case of the judge rejecting her claim because of a lack of corroborative evidence (which is not required). Rather, the judge is looking at the totality of the evidence in assessing her credibility. The judge has carefully set out the details of the claim and summarised the country information. The judge then has analysed the details of the claim and made findings which I find are sustainable for the reasons given by the judge. The decision has been carefully prepared and I see no evidence that the judge imposed a higher standard of proof than was required. I can find no material error of law established.

### Decision

No material error of law has been demonstrated. Consequently, the decision of First-tier Tribunal Judge Raikes dismissing the appeal shall stand.

*Francis J Farrelly*

Deputy Upper Tribunal Judge