



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/01765/2018

THE IMMIGRATION ACT

Heard at Taylor House

On 12th December 2018

**Decision & Reasons
Promulgated**

On 10th January 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

Ghadeer [S]

(NO ANONYMITY DIRECTION MADE)

Appellant

And

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Adebayo of A2 Solicitors

For the Respondent: Ms Jones, Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge T Jones promulgated on the 20th June 2018 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's claims based on asylum, humanitarian protection and Articles 2 and 3 of the ECHR.

2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by Upper Tribunal Judge Frances on 2nd November 2018. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.
4. The grounds of appeal in the main are a disagreement with the findings of fact made by the judge.
5. The first issue taken relates to paragraph 73 the decision in which the judge makes adverse credibility findings relating to the appellant having returned to Saudi Arabia. It is claimed that the judge has misunderstood the evidence. As an integral part of the appellant's case the appellant has claimed that she was in fear from a man called T. In the grounds she is seeking to suggest that she was able to return to Saudi Arabia in May 2012 to renew her visa and then returned to the United Kingdom because T was in the USA and by reason of that she was therefore not at risk from him. It is clear what she is saying that she is seeking to suggest that the problems with regard to T had started prior to her returning to Saudi Arabia. In interview the appellant had specifically claimed that the antipathy between herself and T had arisen some three months prior to her returning to Saudi Arabia.
6. However in the documentation there is a statement by the appellant [marked 1 JPMc]. In that statement the appellant clearly refers to returning to Saudi Arabia and whilst T was in Saudi Arabia being introduced over the telephone to T. There the appellant refers to the fact that she told T she would be returning to the United Kingdom and he indicated he would contact her when she was in the United Kingdom. In that statement there is no suggestion at that stage of any antipathy between herself and T. It was only after she returned to the United Kingdom that the problems began. That clearly is inconsistent with the appellant's latest account that the only reason she could return to Saudi Arabia was because T was in the USA.
7. The appellant sought to rely upon a series of Text that she disclosed to the police. The text were allegedly disclosed on 29 May 2015 when she made a police report. However the texts themselves are dated 10 February 2012. In those texts it is suggested that there is some threat from T and he was considering revenge even though he was in the USA. Yet the appellant does not leave the United Kingdom to go to Saudi Arabia until over three months later. The appellant had no way of knowing where T was at that stage and would not know whether or not he was still in the USA. The point was made within the reasons for refusal letter. The judge has pointed out the details and was entitled to find that the account was therefore inconsistent with the claim that the appellant she could return to Saudi Arabia without being at risk.

8. The judge was entitled to conclude in the circumstances that the account by the appellant was not credible.
9. The next issue taken is with regard to paragraph 74. There the judge in dealing with the text messages and a social media profile has discounted the same and found the appellant's account not credible.
10. The relationship of the appellant to T had been examined in detail in the refusal letter from paragraph 27 onwards. In interview the appellant had suggested that contact with T had been three months prior to May and that she had been seeking to sell land on behalf of a friend. Why a man in Saudi Arabia should employ the appellant to sell land was open to question. When questioned as to the name of the man/friend she was helping the appellant could not give any details. Further the appellant could not provide any other details as to how she had assisted her friend in selling the land. Taking that into account the judge was entitled to find that the account was not credible.
11. The judge in making his own findings had considered that the criticisms of the appellant's account were well made. The details were inconsistent as to when she had spoken to T, either May or September, as to what happened between her and T.
12. The appellant had claimed in a police report in the UK that she had spoken to T in May 2012. She had otherwise produced text to suggest threats in February 2012 alternatively threats and being propositioned in Ramadan, which in 2012 was July or August but then claimed to have spoken to T in September 2012.
13. The judge had pointed out the inconsistencies in the appellant's account with regard to when she had spoken to T, what they were speaking about, whether there were threats. The judge had considered the contents of the refusal letter and had given valid reasons for finding challenges made were justified and that the appellant's account was therefore not credible. It was not a matter of the judge merely adopting the refusal letter but of the judge critically examining the contents finding that the points were well made and that the appellant had failed to answer the points.
14. In light of the inconsistencies and the challenges made specifically as to when the appellant was being threatened by T, the judge was entitled to find that other evidence was wholly inconsistent with the appellant's account of the text messages and that therefore he could not place any weight on such.
15. The next issue taken was with regard to an allegation of rape made by the appellant and whether her parents were in the United Kingdom at the time that that allegation was made to the police. There was evidence that the appellant's account was not wholly consistent with video security camera evidence and that the police otherwise considered that the appellant was trickle feeding them information. It suggested that the appellant's

solicitor's letter of 27 January 2017 suggest that neither of the appellant's parents were in the United Kingdom but that the appellant otherwise has claimed that her mother was in the UK. The letter in question is pages 108 to 115 of the appellant's bundle.

16. The judge in paragraph 73 quite rightly highlighted the evidence and the inconsistencies.
17. At the outset of the hearing Mr Adebayo on behalf of the appellant raised the evidence that had been presented to the First-tier. Mr Adebayo wished to argue as part of the appeal that the judge had wrongly set out in the evidence that the appellant had stated that her family owned the flat in which she and her sister lived in the UK. It was the appellant's case that she had never stated that in evidence.
18. Mr Adebayo was seeking to check within the Record of Proceedings whether there was any question put to the appellant about the ownership of the flat. No request had been made for a copy of the judge's notes of evidence or a transcript of the notes. Mr Adebayo did not have any notes from the representative that had been at the First-tier hearing. Mr Adebayo was entirely reliant upon the appellant claiming that she had never stated in evidence that her family owned the flat. The judge in the decision had clearly on more than one occasions recorded that the appellant had stated that the flat was owned by family members.
19. At the time of the hearing Mr Adebayo did not have the notes of evidence from counsel. I was unable in the hearing to establish in the notes whether any question had been put to the appellant. The notes of evidence require careful reading. I have been through the notes again. In the notes as marked [tag 2]PMc] as series of questions are put to the appellant. To an extent the notes would require transposition by the Judge. However parts of it are legible:-

Q-How long do you bel [believe] he stay [stayed]UK

A -I wasn't in touch. I was really fright [frightened]if ever phone [indecipherable—th?] or F house ask where I was

Q [the question above was put again]

A I wasn't sure how long he was in UK.

Q -where was he staying

A In same flat- my current address

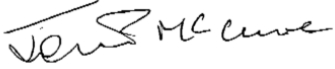
A So family flat?

20. There is no answer recorded against the last question identified. However the judge in the decision has recorded that the appellant had said that this was a family flat. There was evidence given about the appellant's accommodation. Without clear evidence that such an answer was not given, I have no reasons to question the judge's record of evidence in the decision.

21. The judge has given reasons for finding that the appellant's account was not credible and that the account was therefore rejected. In the circumstances the grounds of appeal are nothing more than a disagreement with the findings of fact made by the judge. The judge has given valid reasons for finding that the appellant's account is not credible.
22. In light of that there is no material error in law in the decision. I therefore dismiss the appeal.

Notice of Decision

23. I dismiss the appeal on all grounds.

Signed 

Deputy Upper Tribunal Judge McClure
December 2018

Date 20th