

H-MC/12-V1

Heard at Field House

JM (Monrovia - Risk on
Return) Liberia [2004] UKIAT
00111

On 23 April 2004

IMMIGRATION APPEAL TRIBUNAL

notified: Date Determination

Given orally in court 18 May 2004

Before

:

**Mr. J. Barnes - Chairman
Professor B.L. Gomes Da Costa JP
Mrs. E. Hurst JP**

Between

APPELLANT

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

Representation

For the Appellant: Mr. S.F. Khan, Counsel instructed by
Goldkorn Mathias Gentle.

For the Respondent: Mr. J. Gulvin, Home Office Presenting Officer.

DETERMINATION AND REASONS

1. The Appellant is a citizen of Liberia born on 29 April 1972 who arrived in the United Kingdom on 7 January 2003 and claimed asylum on 10 January 2003 after staying in the airport terminal in the intervening period. He submitted a Statement of Evidence Form and was subsequently interviewed on behalf of the Secretary of State who refused his application for the reasons contained in a letter dated 21 February 2003. On 25

February 2003 the Secretary of State issued directions for his removal to Liberia following refusal of leave to enter after refusal of his asylum application. He appealed against that decision on both asylum and human rights grounds and his appeal was heard jointly with that of his wife, who had claimed separately in her own right on 6 June 2003, by Mr. Rex Billingham, an Adjudicator. The Adjudicator did not find the Appellant and his wife to be credible in their claims and for this reason he dismissed the appeal on both asylum and human rights grounds. The Appellant now appeals with leave to us against that decision.

2. The Adjudicator makes it clear that there is nothing in the Appellant's account which is necessarily implausible having regard to the country background situation at the time of the events to which he refers. It was essentially his claim that he had from 1994 been a member of the Lofa Defence Force, which was a government associated force intended to repel rebels coming from French Guinea into that part of Liberia. He said that in the course of such service he had initially been arrested by government troops who suspected that he was a rebel and then by rebel insurgents who ousted the government troops whilst he was still imprisoned. After a considerable journey he made his way back to Monrovia where his family come from and where his wife then was where he was reunited with them. But, fearful of further arrest he says that he stayed more or less in hiding in his home for the next nine months until in September 2002 he was arrested by government agents, detained and severely ill-treated until he was able to escape.
3. As we have said the Adjudicator did not accept the credibility of that claim but having looked at the reasons which he gives for those findings at paragraph 12 we are bound to say that it is not entirely clear whether the Adjudicator accepted that he may at some point have been the subject of arrest even if not precisely in the circumstances which he claimed. We consider that there are certainly arguable issues raised in the grounds of appeal as to the overall sustainability of those findings. We put it no higher than that because we do not need to do so in the present case by reason of there having been a substantial change in country conditions since the events which the Appellant said took place in Liberia. The former President Taylor left Liberia in August 2003 and there is now a United Nations Mission in Liberia (UNMIL) which is deployed as a multi-national peacekeeping force in Liberia under Resolutions 1497 and 1509 of the United Nations of 2003.
4. This Appellant, as we say, originates from Monrovia where he spent much of his life and where he returned on his own account for the last nine months of his stay in his country in order to rejoin his wife and family who had remained there.

5. The Tribunal has considered in the recent decision of **[2003] UKIAT 00164 T (Liberia)** whether there is a current real risk of persecution or of treatment in breach of protected human rights in Monrovia, where the Appellant would be returned and which as we say we can properly regard as being his home area. That determination holds on the basis of the evidence in the October 2003 CIPU Report, supplemented by an Amnesty International Report produced to the Tribunal, that there is no such current risk and sets the matter out in these terms at paragraph 8:

"Drawing the threads of these accounts together it seems to us to be tolerably clear that the position if a person is returned to Monrovia is not such any longer as to engage Article 3. The situation in Monrovia is tense but it is under control. Monrovia is an area where there are UN troops in numbers and they are able to keep the peace in that city. Further it is apparent from the fact that internal displacement camps have been visited by Amnesty International both that such camps function and further that they are open to outside scrutiny. There is no criticism of the safety of the people who are in those camps at present. We are confident that if Amnesty International had discovered that there were any security problems for those who are at present in internal displacement camps they would have said so in this report. In the absence of such evidence we feel that we are in a position to conclude that if returned to Monrovia this claimant, although a Mandingo and a Muslim, would be at no particular enhanced risk over and above that run by other Liberian citizens. Further we come to the conclusion that the ordinary Liberian citizen himself if in Monrovia or in the camps near there is at no real risk of Article 3 harm".

6. Mr. Khan recognised that in light of that decision he was placed in some difficulties since even if we accepted everything which the Appellant had claimed as being true the decision in **T** would point to the conclusion that the Appellant would no longer have a current well-founded fear of persecution for a Refugee Convention reason or of treatment in breach of his protected human rights under Article 3 if now returned to Monrovia. He submitted to us, and we accept, that outside Monrovia the situation may well still be different but we are not concerned with that provided that a safe return to Monrovia can be effected.
7. We have been referred to the briefing paper issued by Human Rights Watch entitled "'The guns are in the bushes' - Continuing abuses in Liberia". This appears to have been produced in late 2003 or early 2004 and to cover the position for the year 2003. There is a section V entitled "Protection of civilians and UNMIL"

which considers the current situation following the arrival of the United Nations peacekeeping force. It points to there having been some occasions which have caused difficulty and some lack of confidence on the part of the Liberians, these being specifically concerned with earlier attempts at putting into effect a controlled programme of disarmament by the surrender of arms in return for payments to rebels, particularly those associated with LURD. We accept that it is clear that those arrangements did go wrong and caused a localised and short-term disturbance in early December 2003 but it is said that these events occurred by reason of poor advance planning of those particular exercises and there is nothing to show that they were other than short-term and localised in the way we have noted. The report makes it clear that a further increase in the numbers of UNMIL peacekeepers is required in order to spread stability from Monrovia into the regions of Liberia but it notes that in December 2003 an additional 2,000 Ethiopian and Pakistani troops arrived who it describes as "a hugely welcome addition to the UN force and one which enabled the UN to deploy its first troops to Tubmanburg, Gbarnga and Tappeta".

8. It is anticipated that there will be further increases which will enable the peacekeeping mission to be extended further within Liberia but what is certainly clear from that report is that the position in Monrovia has not in general terms deteriorated from that referred to in the Tribunal decision in **T (Liberia)** and has, if anything, improved save for the two localised incidents to which we referred above.
9. There is therefore no evidence before us which would lead us to take a different view of current risk from that already taken by the Tribunal in **T (Liberia)**. It follows from this that even were we to accept the Appellant's claims as to his history in Liberia it would not enable him to succeed before us because we are obliged to look at the position as it is today in arriving at our findings as to whether there is a real risk on return.
10. For the above reasons this appeal is dismissed.

J. BARNES
VICE PRESIDENT