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Heard at Field House

AF (Background material – Risk to
RUF members) Sierra Leone [2003]
UKIAT 00157

On 18 November 2003

IMMIGRATION APPEAL TRIBUNAL

Corrected transcript of decision given at hearing

Signed: 20.11.2003

Issued: 25/11/2003

Before:

Mr J Freeman (chairman)
Professor D B Casson (acting vice-president)

Between

APPELLANT

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

Representation

For the appellant: Mr I Kumi, Counsel instructed by Owen White &
Catlin, Solicitors

For the respondent: Mrs C Golding, Home Office Presenting Officer

DETERMINATION AND REASONS

This is an appeal by a citizen of Sierra Leone against the decision of an adjudicator, Mr D Taylor, sitting at Hatton Cross on 16 June 2003, dismissing his appeal against refusal of leave to enter on both asylum and human rights grounds.

2. The appellant gave a history in his statement of involvement with the RUF. This began as involvement of an involuntary kind, in which he was conscripted to act as a porter and took part in their activities on that basis only until the end of the civil war and incorporation of the RUF in the political process in November 1999. Mr Kumi has realistically conceded that nothing

in the appellant's own activities before that date was likely to put him at risk on return now.

3. The current case put forward by the appellant is based on the activities of a political kind, in which he says he took part since that date. These appear to have been part of the normal political process. The suggestion that they were likely to result in anything outside the ambit of that is based on an item from a newspaper called "*New Vision*", published in Sierra Leone on 2 October 2002. The original newspaper was before the adjudicator and it has been put before us as well. The adjudicator simply notes "The original newspaper was produced to me to confirm its authenticity". We have to say that the appearance of the article in question, occupying what appears to be one box on a page otherwise composed of advertising material, was one which, in our view, merited much closer examination than the adjudicator gave it. However, we are certainly not proposing in any way to go behind his findings on that point.
4. What the article consisted in was a photograph which may well be that of the appellant, and a general review of what was going on in the country and, in particular, in the Kailahun district. The last paragraph needs to be quoted in full:

Aiah Foday is the latest victim of the CDU wrath. He was an outstanding critique of the SLPP government and organiser of the RUF Party ITAM/USL branch. Sources disclosed that he was forced to flee from his 16 Personage Street resident at Kissy, Freetown, to an unknown destination on the night of 30 September 2002 by a group of CDU who, according to sources, needed him to answer certain questions at D Division Office (Kissy). Police investigation into the matter is still going on.

5. The suggestion that these events were likely to put the appellant at real risk on return is based on only one piece of relevant background evidence, which is the Home Office's own operational guidance note of December 2002. The adjudicator does not quote the actual terms of the relevant passage of the note, but simply (at paragraph 25) the submission made to him on it by counsel for the appellant before him, who was not Mr Kumi. The same counsel equally forbore in his grounds of appeal to quote directly from the operational guidance note. We however shall do so.

As there is an ongoing peace process that appears to be holding, applications based on involvement with rebel groups are unlikely to be well-founded as such individuals are not generally facing harassment. However, given that in some cases there may be a resentment against prominent members of a rebel organisation because of their activities while members of such groups it is possible that the threshold may be passed because of their individual circumstances.

6. Mr Kumi's case before us was that the appellant's activities in the political sphere, described in his statement, might make the authorities in the shape of the CDU see him as a "prominent member" of the RUF. In our view, that is a complete misreading of the operational guidance note. There may be some excuse for that, because it is not a document originally intended for public

- consumption, and it may not be so clear in its terms as documents which are prepared on that basis, like the State Department report or the Amnesty report.
7. Neither of these reports contains any passage that Mr Kumi has been able to refer us to which suggests that people would be at risk merely for being a member, prominent or otherwise, of the RUF as a political party. It is quite clear to us that the reference to “activities while members of such groups” in the operational guidance note refers to persons who may well be suspected of having been involved in the serious atrocities which took place during the course of the civil war in Sierra Leone. It is clearly intended to be read in that historical context, and we do not consider that it has any application to whatever may take place during the current political process in Sierra Leone.
 8. The adjudicator dealt with the present situation and the effect of the article in this way at paragraph 35.

The appellant did not claim to have been a prominent member of the rebel organisation as such. He claims to have been a prominent member of the political party and relies on the “New Vision” article in support of that. However what the article states is that the CDU wish him to “answer certain questions”. The police and the CDU are responsible for the proper maintenance of law and order in Sierra Leone. It is to me significant that the appellant has not gone into any particular detail of his activities while under detention. That means by the RUF before the ceasefire nor of his political activities after it.

9. In our view, even after accepting the apparent genuineness of the newspaper article, the adjudicator was perfectly entitled in the light of the background evidence in this case, to deal with it in that way and the **appeal is dismissed.**

A handwritten signature in black ink, appearing to read 'J. Freeman', with a long horizontal stroke extending to the right.

John Freeman
(chairman)