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Appeal No. CC10559-02
MR (Chechen-Return) Russia CG [2002] UKIAT 07562

IMMIGRATION APPEAL TRIBUNAL

Date of Hearing : 7 February 2003

Date Determination notified:

.....02/04/03.....

Before:

Mr G Warr (Chairman)
Mr C Thursby

MICHAEL RAVEN

APPELLANT

and

Secretary of State for the Home Department

RESPONDENT

DETERMINATION AND REASONS

1. The appellant, a citizen of Russia, appeals the determination of an Adjudicator (Mr T.R. Jones) against the decision of the Secretary of State to refuse his application for asylum.
2. The appellant represented himself before us while Mr L. Parker appeared for the respondent.
3. The appellant left Russia on 7 November 2000 and arrived in this country on 13 November, applying for asylum two days later.
4. The appellant's home town is Gudermes in Chechnya. The Adjudicator summarised his claim in paragraph 12 of his determination and made the following findings in paragraph 22 of his determination:
 - (a) I find that any fear that the appellant has of persecution in Russia in general or in Chechnya or Krasnodar in particular is not persecution for a Refugee Convention reason. Essentially, the appellant claims that he is being persecuted because

he cannot prove who he is rather than because he has any particular racial characteristics. He did not claim to belong to a particular social group, but I considered whether it was reasonably likely that he was persecuted as a Russian displaced from Chechnya. I find not. He claims that he was persecuted as a vagrant, if anything, it appeared to me.

- (b) I had difficulty in accepting the appellant's basic story. On the one hand his knowledge of Chechen political affairs was insufficient to enable him to answer some questions that ought to have been simple for a person who had been brought up there. On the other, his description (latest statement, paragraph 7) of having found that he had escaped from Chechnya unwittingly on foot and being told by a driver 'to go straight ahead to Krasnodar' just does not ring true. Krasnodar is more than four hundred miles from Chechnya at the East-north-eastern end of the Caucasus mountains and into an immediately neighbouring province. Even giving him the benefit of the doubt on that matter, as I am bound to do, I have difficulty with the appellant's claim to vagrancy, having regard to his obvious basic intelligence and his resourcefulness. I have taken it that he was telling me that he had lost his identity card, as well as his passport, and it is that which would have caused him most difficulty in Russia. I do not accept that the obtaining of a replacement for one that had been destroyed in the circumstances that the appellant describes would present the problems that he claims.
- (c) I do not find that it is reasonably likely that the appellant's alleged fear of persecution in Russia for a Refugee Convention reason on his return there is well-founded.
- (d) I do not accept that the fear ascribed to the appellant by implication that he would be required to undertake military service constitutes persecution for a Refugee Convention reason. I do not find that he would be treated differently from any other draft-dodger, if he is one in fact. I do not find that any persecution that the appellant fears from Chechen rebels, for whatever reason, constitutes persecution for a Refugee Convention reason.
- (e) Except where they are not consistent with my findings expressed herein, or I have commented upon them

separately, I support the comments made on behalf of the respondent in the reasons for refusal letter.'

5. The Adjudicator accordingly dismissed the appellant's asylum and human rights appeals.
6. The appellant in the grounds of appeal stated he had a well-founded fear of persecution as a Chechnen refugee. His parents had been killed together with seventy other innocent people by Russian bombing. He had a well-founded fear of persecution owing to his German origins and a clear political opinion about Chechnen refugees. The appellant stated in paragraph 4 of the grounds of appeal that he did not speak much at the hearing as he assumed his hearing would be successful because of what a representative had said. He denied that there was any claim to be in fear because of not being in the army. He had never claimed to be a vagrant. He had post-traumatic stress disorder. This had been adversely affected by the determination.
7. In a letter sent to the Tribunal the appellant stated that his name was Michael von Raven 'because von is not only a noble addition to our German surname, von means from, von means that we are proud to be from family Raven, which are from our ethnic homeland – Germany.' The appellant said that his family had tried to keep on German traditions although it had been very difficult. He maintained the determination was completely wrong and relied on a UN report dated 21 November 2002 which stated that Chechnen refugees needed protection.
8. Mr Raven in his submissions stated that his parents were ethnic Germans and it was a requirement that one should speak German in order to obtain German citizenship. He spoke German fluently. The family had had troubles under Stalin in 1937. His grandmother had been killed in a concentration camp. He came from Chechnya. Ethnic Germans suffered badly in the Russian Federation. His parents had been killed by Russian bombing. Seventy others had been killed. Half of their house had been destroyed. Things had been very hard for the appellant. It was chaos and nothing worked.
9. The appellant was concerned that on his return he would be killed and sent to a concentration camp. There was no doubt about this.
10. Mr Parker submitted that the Adjudicator had made clear credibility findings and the grounds of appeal had not challenged them. The case concerned risks on return. The Home Office relied on the Chechnyn bulletin dated January 2002. Thousands of Chechnens were returning to their homes despite the problems. The UNHCR were examining ways to supplement government efforts towards return and reported in January 2002 of several improvements including government assistance to displaced persons. It was accordingly safe for the appellant to return and there would be support. Mr Parker also referred to paragraph 6.60 of the Country Assessment. At least a quarter of a million people migrated from Chechnya and the UNHCR continued to help government agencies increase technical capacities to provide protection and assistance for the displaced. Mr Raven submitted the UN report dated 29 November 2002 was dated after the points relied on by the respondent.

Chechnens who had escaped from Chechnya must be permitted to arrive in Kazakhstan in the view of the UNHCR. There were twelve thousand Chechnen refugees in Kazakhstan, 80% of whom were women and children who had fled Russia between 1999 and 2001.

11. There were no freedoms in Chechnya and Putin was in charge of a brutal regime. The appellant had a good case as a member of a social group and because of his origins, and because of the experiences he had suffered. He had his political opinion and he required protection. He had a well-founded fear and it would be a violation of his rights to return him. He had post-traumatic stress disorder and had been severely persecuted. He had sent medical documents.
12. At the conclusion of the submissions we reserved our determination. We have carefully considered the points made on both sides and the documents submitted. We should first of all say that the appellant had no difficulty representing himself and was fluent in English and put his points articulately.
13. The Adjudicator heard from the appellant and concluded that he had difficulty in accepting the account given. It does not appear to us, despite the points made by the appellant that he was arguably wrong to find as he did. The points made by the Adjudicator are not lacking in cogency and we do not feel that despite the points made by the appellant it would be right to reverse them.
14. Mr Parker submitted that the question was whether the appellant could properly be returned notwithstanding the adverse credibility assessment.
15. There is before us a letter dated 4 February 2003 from a Mr D.R. Jones who has been counselling the appellant for over two years. He suffered from post traumatic stress disorder and any illogicality in the presentation of his case, in the view of Mr Jones, could be attributed to his apprehension about the outcome and his insecurity. We take this carefully into account when reaching our decision.
16. The Country Assessment states that by February 2000 some 120,000 displaced people had returned to Chechnya although there were difficulties with the economy and normal civil life. The Chechnya administration, part of which remained in Gudermes, had not been able, for security reasons, to establish itself fully in the capital. 160,000 people are displaced within Chechnya. The United Nations High Commissioner for Refugees in October 2000 stated that she believed that the Russian authorities were taking steps to bring back civilian rule to the regime and that the UNHCR were examining ways to supplement government efforts towards return, rehabilitation and reconstruction. As mentioned above, in January 2002, the UNHCR noted several improvements including:

‘government assistance to displaced persons, returnees and socially vulnerable persons in Chechnya, including food supplies, had increased, while payment of pensions and salaries had resumed; the judiciary was gradually re-established in Chechnya, with some thirty judges working

in twelve out of fifteen District Courts as well as in the Supreme Court of the Republic; local bodies of the Ministry of Interior in Chechnya had resumed their administrative functions, and identity documents were being issued to undocumented displaced persons and local residents in Chechnya. Meanwhile freedom of movement between Chechnya and Ingushetia had improved, with several thousand displaced persons travelling between the two republics every month, to visit relatives, to check on property, or to trade, among other reasons. However, while the situation of the displaced in Chechnya is now relatively stable, the security situation prevents international relief organisation from establishing offices there, and hinders any substantial improvement in the return process.'

17. We have carefully taken into account the document relied on by the appellant where the UN called on Kazakhstan to settle the status of Chechnen refugees, where there are apparently twelve thousand Chechnens. We do not, however read the document as contradicting the material relied on by the Home Office. Despite the difficulties portrayed in the country assessment, we are not satisfied that the appellant's fears about being put into a concentration camp are well-founded. Life will undoubtedly be hard for him and we take into account the evidence that he is agitated about the outcome of these proceedings and the prospect of returning. We do not feel, however, that the Adjudicator's determination of the issues before him was wrong, nor that the procedures at the hearing were in any way unfair as apparently suggested in the grounds of appeal. We are confident that the appellant had the opportunity to say what he wanted to say and indeed, as we have observed, he was an articulate representative in his own right. The Adjudicator did not accept that the appellant had been persecuted for the reasons he claimed. The Adjudicator explored the issues, properly in our view, and came to satisfactory conclusions on the evidence before him. Nothing that we have heard nor the material that has been put before us causes us to have doubts about the soundness of the Adjudicator's conclusions.
18. The appellant will face a difficult time on return to Chechnya but the evidence suggests that there is some limited support in the region and relative stability there despite the obvious difficulties with the security situation. It would not in our view arguably breach the appellant's human rights for him to be required to return. It would not expose him to inhuman or degrading treatment, having regard to the high threshold required to establish a claim under Article 3. Any interference with his private or family life would be proportionate and in pursuit of a legitimate aim (immigration control). Despite giving careful and sympathetic attention to the points made by the appellant, we are unable to assist him.
19. Appeal dismissed.

**G. WARR
VICE PRESIDENT**