

Heard at Field House

VG (Operational Guidance Note
2001) Angola CG [2002] UKIAT
04045

On 22 August 2002

HX10756-2002

IMMIGRATION APPEAL TRIBUNAL

Date Determination notified:

29TH AUGUST 2002

Before:

Mr P R Moulden (Chairman)
Mr N. Kumar JP
Mrs S. I. Hewitt

Between

VALDIR CLAUDIO RITA GREGORIO

APPELLANT

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

DETERMINATION AND REASONS

1. The Appellant is a citizen of Angola who has been granted leave to appeal the determination of an Adjudicator (Miss A. L. Sawetz) dismissing his appeal against the Respondent's decision to give directions for his removal from the United Kingdom and to refuse asylum.
2. Miss H. Owen of Counsel instructed by Perera & Co appears for the Appellant. Mr M. Davidson a Home Office Presenting Officer represents the Respondent.
3. The Appellant arrived in United Kingdom on 28 September 2001 and claimed asylum on 1 October 2001. The notice containing the decision against which

he appeals is dated 19 November 2001. The Adjudicator heard the appeal on 29 April 2002 and leave to appeal was granted on 17 June 2002.

4. The Appellant claimed to fear persecution from the MPLA authorities in Angola because he and his father were suspected of helping the UNITA rebels. He said that he had been arrested and detained before escaping when he was released to go to his father's funeral. The Adjudicator found that he was not a credible witness. She did not believe his account of events. He had not established a well-founded fear of persecution for a Convention reason or that his human rights would be infringed. In the light of the Home Office guidelines he came within the category of those who could be returned to Luanda.
5. The grounds of appeal submit that the adverse credibility finding is unsafe. Leave was not granted in respect of this ground and Miss Owen did not seek to reopen it. We consider that the adverse credibility finding is safe and supported by the evidence. The only remaining ground of appeal relates to the risks on return in the light of current country circumstances and in particular the Home Office policy set out in the last paragraph of the August 2001 Operational Guidance Note. This states,

"Removal are only possible to Luanda, and it has been agreed on humanitarian grounds, following consultation with UNHCR, that nobody should be returned to Angola who has not previously lived in Luanda or who does not have close current connections there. In addition, due to the risk of press-ganging into military service by the government or UNITA, no males between the ages of 15 and 25 should be returned. Vulnerable young women who live outside Luanda should not be returned because of fears of their abduction for service as sex slaves. Such cases should normally be considered for exceptional leave to remain."

6. We have the Appellant's bundle containing 29 pages, the Home Office Angola Country Assessment of April 2002 and the Operational Guidance Note to which we have already referred.
7. Miss Owen submitted that the Operational Guidance Note was still in force. The Appellant spent between two and four months with a friend in Luanda. This was his only connection with that area. Since his arrival in United Kingdom his only contact in Angola was with his cousin, who did not live anywhere near Luanda. He had not been in touch with his friend in Luanda. The current country reports showed that the humanitarian situation in Angola was very serious. If he returned the Appellant would be a displaced person with minimal links to Luanda. If he had to go into a camp, which was likely, this would infringe his Article 3 human rights and imperil his health, particularly in the light of the trauma he suffered in Angola. In reply to our question Miss Owen conceded that there was no medical evidence. She accepted that it would be difficult for the Appellant to make out a claim under the Refugee Convention, for lack of a Convention reason. She rested her case on Article 3. We were asked to allow the appeal.

8. Mr Davidson submitted that now the war in Angola had come to an end the Appellant was not at risk of forced recruitment. The Operational Guidance was given for humanitarian reasons and did not imply that the Respondent accepted that even those who came within the guidelines would necessarily be at risk of infringement of their human rights. The Appellant had lived with a friend in Luanda for approximately four months. If his evidence on the point was accepted the friend harboured the Appellant in circumstances where it could have been dangerous for him to do so. This indicated that he was a close friend and connection in Luanda. Most of the country reports dealt with the question of returnees from adjoining countries who came from and were likely to have to go to camps. The Appellant would be returned to Luanda. Mr Davidson submitted that the evidence did not justify the submission that what would happen to him on return was likely to cross the high Article 3 threshold. We were asked to dismiss the appeal.
9. The different elements of the relevant passage in the Operational Guidance Note need to be addressed separately. The Appellant is not a young woman. He is not a male between the age of 15 and 25. His date of birth is 28 November 1972 and he is now 29 years of age. He does not come within the age band of those said to be at risk of forced military service with one side or the other. However, changed circumstances since the Guidance Note was produced in August 2001 make it even less likely that a man of his age would be at risk of forced military service. The first document in the Appellant's bundle is a report from the UN Office for the Coordination of Humanitarian Affairs. This confirms what is widely known, that the decades long civil war came to an end with the March 2002 ceasefire, which appears to be holding. Many thousands of refugees have returned to Angola from adjoining countries. Paragraph 6.44 of the Country Assessment Refers to the formal end of the UNITA military campaign. We find that the Appellant is not at risk of forced military service on return to Luanda. This begs the question of how he may be at risk and from whom.
10. In circumstances where the Adjudicator found that the Appellant was not a credible witness and there is no medical evidence, the Appellant has not established that he suffers from any physical or mental ill health, which would be exacerbated by his return to Angola. If he returns he will do so as a healthy 29 year-old man. Miss Owen did not suggest that he would be at risk from any particular individual, group or faction, in the MPLA, UNITA or anyone else. She argued that he would have to go to a refugee camp from which we understood her to say that he would suffer destitution and starvation. The country reports indicate serious difficulties for many returnees, particularly those from adjoining countries, but not that their circumstances or the circumstances of the Appellant would be so serious as to cross the high Article 3 threshold. We find that, even if the Appellant were unable to obtain any help from friends or relatives and in particular from the friend in Luanda who helped him in the past, the circumstances of his return would not infringe his Article 3 human rights.

11. However we find it is reasonably likely that, even though they have not been in touch recently, the Appellant's friend who allowed him to stay for approximately four months before he left the country would once again provide the Appellant with the necessary close current connections, support and accommodation. Whilst the Adjudicator did not accept the Appellant's credibility it should not be forgotten that the Appellant claimed that this friend was prepared to help him at considerable risk to himself at a time when the Appellant was in hiding and on the run.
12. The Appellant has not established well founded fear of persecution for a Convention reason or that his human rights are likely to be infringed. We agree with the Adjudicator's conclusions and dismiss the appeal.

.....
P. R. Moulden - Vice President