



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/03471/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 16 March 2020**

**Decision & Reasons Promulgated
On 14 April 2020**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**E B (ALBANIA)
[ANONYMITY ORDER MADE]**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Ben Amunwa, Counsel instructed by Sentinel Solicitors
For the respondent: Mr Nigel Bramble, a Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity order

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of E B who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.

Any failure to comply with this direction could give rise to contempt of court proceedings.

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 28 March 2019 to refuse him international protection under the Refugee Convention, humanitarian protection or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Albania.

Background

2. The appellant was born in Elbasan, in Albania, but lived all his life in Durres. His family are Muslim, but non-practising, including the appellant. The appellant was educated up to the age of 17 in Albania: at the age of 15, he began work but also commenced a vocational course in tourism and leisure: the appellant was learning to manage his finances and developing independence skills, including cooking.
3. On 16 December 2014, when he was 17 years old, the appellant left Albania, travelling via Italy and arriving in the United Kingdom on 21 December 2014.
4. On 15 May 2015, the appellant was referred to the National Referral Mechanism (NRM) as an unaccompanied asylum-seeking child (UASC). He benefited from a positive Reasonable Grounds decision made the same day.
5. The appellant turned 18 in September 2015. He was in a relationship for a time with a British citizen of Chinese origin: on 23 April 2017, they had a daughter. The final pre-adoption care report refers to the appellant harming and abusing his daughter in the first few months of her life, and maternal inadequacy.
6. In October 2017, when she was 6 months old, the child was taken into the care of Social Services initially with her mother, but then separately, because her mother was self-harming in front of the baby.
7. On 6 March 2018, the London Borough of Sutton made a final care plan for the child to be adopted, including provision for final meetings with both parents, and letters which the child could be given later to explain the circumstances of her adoption. The child was not yet a year old.
8. On 20 July 2018, the respondent made a negative Conclusive Grounds decision finding that the appellant was not a former victim of trafficking.
9. In October 2019, the appellant's child was adopted and at the date of hearing the appellant had no direct contact with her. As a matter of law, the parental bond is broken by adoption.
10. The appeal was heard by the First-tier Tribunal 18 November 2019.

First-tier Tribunal decision

11. The First-tier Judge made an application to the Family Court for relevant documents from the care proceedings and had regard to them. The First-tier Judge heard oral evidence from the appellant and having taken account of all the evidence before the Tribunal, found that he was not a reliable or credible witness and that his account of ill treatment in his family home and of trafficking was fabricated. The international protection claims were all rejected: Refugee Convention, humanitarian protection, and Article 2 and 3 ECHR.
12. At the beginning of the First-tier Tribunal hearing, the appellant's Counsel confirmed that no stand-alone Article 8 ECHR claim was pursued. The Judge's decision dealt briefly with Articles 2 and 3 ECHR, which fell with the other international protection claims. The decision concluded that 'As indicated, there is no arguable Article 8 appeal before the Tribunal'.
13. The First-tier Judge dismissed the appeal and the appellant appealed to the Upper Tribunal.

Permission to appeal

14. Permission to appeal was granted in the following terms:

"... In a decision promulgated on 10 November 2019, Judge Head dismissed the appellant's appeal against the respondent's refusal of his protection case and his claim based upon Article 8, by reason of his relationship with his daughter.

 - (1) The grounds of appeal assert:
 - (a) the Judge has failed to consider the Asylos report, which raises protection issues, as there was no reference to such in the decision.
 - (b) the Judge has suggested that there is a discrepancy in the appellant's evidence re the future care of his daughter. There is no discrepancy and the finding is irrational.
 - (c) the Judge's conclusion that there was no continuing interest from criminal gangs is unsustainable.
 - (d) the Judge has failed to consider Article 8 ECHR properly or at all.
 - (2) Whilst I may not have given leave in respect of the grounds of appeal relating to protection issues, it is clear that the appellant has a child in the United Kingdom and a proper assessment of Article 8 the needs to be made. All the grounds may be argued."

Rule 24 Reply

15. There was no Rule 24 Reply on the appellant's behalf.
16. That is the basis on which this appeal came before the Upper Tribunal.

Adjournment request

17. On 26 February 2020, the appellant's representatives wrote to the Upper Tribunal seeking an adjournment. They had asked the First-tier Tribunal for copies of the Family Court documents. They considered that it was likely to take several weeks for the Family Court documents to be provided by the First-tier Tribunal and that they would then need to peruse the documents and advise the appellant. Sentinel Solicitors sought an adjournment of 8 weeks for all of that.
18. On 3 March 2020, Upper Tribunal Judge O'Connor refused the application, noting that it had not been established that the adoption documents were relevant to consideration of whether the First-tier Tribunal erred in law.

Upper Tribunal hearing

19. At the beginning of the Upper Tribunal hearing, Mr Amunwa for the appellant indicated that the appellant would not pursue the application for the Family Court documents nor the application for an adjournment.
20. Mr Amunwa had prepared a skeleton argument: he argued that the First-tier Judge had failed to have regard to the Upper Tribunal's country guidance on Albanian trafficking in *TD and AD (Trafficked women)(CG)* [2016] UKUT 92 (IAC) or the Asylos report dated May 2019 with reference to trafficking in Albania. Mr Amunwa argued that had the First-tier Tribunal given proper weight to these documents, he should have found that there was a real risk of persecution or serious harm to the appellant as a former VOT.
21. In his skeleton argument, Mr Amunwa disputed the finding of fact that the appellant had lied about his contact with his parents, saying in his asylum and NRM claim that he had lost contact, but in the care proceedings saying that his daughter should be brought up by members of his family in Albania.
22. In relation to Article 8 ECHR, Mr Amunwa contended that the Judge should have assessed Article 8, despite Ms Reid's confirmation that she did not rely thereon.
23. In oral argument, Mr Amunwa relied on his skeleton argument and said that the context was key.
24. For the respondent, Mr Bramble reminded me that the adoption concerned a very sick baby girl, who was placed for adoption at 10 months old, due to abuse by the appellant in the first 6 months of her life, and her mother's inability to cope and self-harming. The country evidence had been taken into account in reaching a negative credibility finding and he asked me to uphold the decision of the First-tier Tribunal.

Discussion

25. It is not correct to say that the First-tier Judge overlooked relevant country material. At [35] in his decision, he confirmed that the appellant's credibility and the plausibility of his account were considered in the context of relevant case law and other applicable country material. The Judge had set out a number of serious discrepancies and found the appellant's entire core account to be fabricated.
26. The First-tier Tribunal's reasoning on credibility is unassailable. The Judge was fully entitled to reach the conclusions of fact and credibility which are set out in the decision, for the reasons given.
27. There is also nothing in the Article 8 point. The appellant's Counsel told the Tribunal that she was not relying on Article 8 ECHR. In her skeleton argument prepared for the hearing, she made no submissions. The appellant does not have any relationship with his former partner, and the parental and family life bond with his daughter was broken when she was adopted.
28. The grounds of appeal are without arguable merit and this appeal is dismissed.

DECISION

29. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Signed **Judith AJC Gleeson**
2020

Date: 18 March

Upper Tribunal Judge Gleeson