



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

Appeal Numbers AA/04651/2014
AA/04945/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 28 July 2015**

**Decision & Reasons
Promulgated
On 19 August 2015**

Before

**THE HON. MR JUSTICE KNOWLES
DEPUTY UPPER TRIBUNAL JUDGE ALIS**

Between

**K G
V G
(ANONYMITY DIRECTION MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Radford, Counsel
For the Respondent: Mr P Nath, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal with the permission of First-tier Tribunal Judge Simpson in respect of the decision of First-tier Tribunal Judge Nightingale promulgated on 9 February 2015. There are two appellants, both are citizens of Albania. They are brothers, one was born

on 20 July 1987 and the other on 12 January 1998. Five grounds of appeal are in the result advanced by Ms Radford.

2. The first ground is that the judge expressed herself to be doubtful in relation to the occurrence of an attack on the first appellant in December 2007 and yet did not carry through the consequence of that finding of doubt in applying what has been described as the “lower standard”.
3. The reference in the decision of the First-tier Tribunal that is the focus of this point is paragraph 57. The important aspect is however to note that the reference appears within an overall passage that goes on to examine the situation on the footing that there was an attack in December 2007, hence the phrasing “Even if the first appellant were attacked in December 2007, which I find to be doubtful, ...”.
4. The second ground advanced on the appeal concerns the same paragraph of the decision of the First-tier Tribunal. After the phrasing that I have just quoted, the First-tier Tribunal went on “... then I can find no evidence which indicates that this was in pursuance of an active blood feud against his family rather than a random encounter with two brothers who feel resentment towards the first appellant’s family for the death of their father.”
5. In essence Ms Radford says that these are one and the same thing. On the one hand an active blood feud; on the other hand an encounter by those who feel resentment towards a family for the death of a father. This is an area in which the terminology used by the First-tier Tribunal Judge can be debated and it has been very attractively debated, if I may say so, by Ms Radford. But the real emphasis on the part of the First-tier Tribunal Judge that is apparent from reading the decision as a whole is on the word “active” and also on the description “active blood feud” as a description of a state of affairs of the quality, degree and characteristics summarised by the Upper Tribunal in **EH** and quoted by the First-tier Tribunal Judge at paragraph 53 of her reasons.
6. We do not accept the submission that the passage at paragraph 57 involves a misunderstanding of what a blood feud is on the part of the First-tier Tribunal Judge. We think that she was doing her best to distinguish on the one hand an active blood feud of the sort under consideration in **EH** and on the other hand the situation where there is resentment by one family for a death, which resentment opens up when there is an encounter, but without the situation having the depth and endurance (and other aspects) so to attract the phrase “blood feud”.
7. However Ms Radford seeks to add to this second ground and indeed build a third ground in the same area by referring to two pieces of material before the First-tier Tribunal. The first is the statement of the first appellant, made on 1 August 2014, in which, referencing the 2007 attack, the first appellant indicates that the attackers shouted in the hearing of

two other people that the first appellant's father had killed their father "and they were just seeking blood".

8. The second piece of material to which we were referred is the interview of the first appellant where question 38 attracted a narrative answer, describing the attack in 2007. Here the account of the first appellant was one which included to the two observers entreating the attackers to stop and to leave it to later to seek a revenge attack for the father's death.
9. These passages add context to the December 2007 episode, but we still understand the First-tier Tribunal's essential conclusion that even if December 2007 happened, and even if it was fuelled by resentment in relation to the death of the father, it was an episode that was not sufficient to justify a finding of an active blood feud, especially when taken in the context of the other findings and overall treatment of the evidence undertaken by the First-tier Tribunal Judge. That includes the point that there was no incident after 2007, a matter that we accept must be seen in the context of the first and second appellants' keeping to the family home throughout that period as they had largely done between 2003 and 2007.
10. The fourth ground of appeal that is raised concerns the period 2003 to 2007. This was a period in which the appellant's mother, on the findings of the First-tier Tribunal Judge and on the evidence, confined the first appellant to the family home, through fear that he would be attacked in revenge. Over that period, however, he did go out once or twice a year. The challenge by Ms Radford focuses in this respect on paragraph 56 of the reasons of the First-tier Tribunal and she criticises that paragraph in a number of ways. These include what is suggested to be a failure to examine the matter in context with reference in particular to expert evidence and country guidance.
11. But the starting point of Ms Radford's criticism was that paragraph 56 does not bring out the fact that when the home was left it was left for reasons of emergency and in circumstances of secrecy. As to that point, we think again, reading the First-tier Tribunal decision as a whole, it is very clear that the First-tier Tribunal Judge kept those features in mind. She referred to them expressly at paragraph 29 and also at paragraph 3.
12. Moving to the contextual criticism, this centred really on the subject of self- confinement. Ms Radford rightly drew attention to the fact that in the case of blood feuds, self-confinement can be a feature that is undertaken as a sign of respect, as it is put in some of the materials.
13. Of course the question in the present case is whether that was in fact the reason for the self- confinement, and if it was the reason for the self confinement, how much further that can inform the question that was at the heart of things, which is whether there was an active blood feud. In fact the evidence in the case suggests that the reason for self-

confinement was for reasons of safety and the evidence does not develop the point further.

14. We see paragraph 56 as satisfactory in its own terms and not as deserving criticism. Moreover it sits within the overall set of findings and reasoning and elaboration undertaken throughout the decision of the First-tier Tribunal Judge.
15. The fifth ground that is raised is quite a narrow one. By reference to the indication in **EH** that press reports from Albania will, unless they are factual, prompt and consistent, tend to add little or no evidential weight in the consideration of whether a feud exists, Ms Radford challenges the approach of the First-tier Tribunal Judge at paragraph 60 of her reasoning. Here the First-tier Tribunal Judge says: "I ... find it of some concern that nothing has been produced such as a local newspaper or other report to confirm the murder of [the father of the other family] in 2003".
16. We do not see a true match here. The First-tier Tribunal Judge was entitled to observe that there was no document such as a local paper referencing the murder. That does not mean that the judge was considering the question whether if there had been a newspaper or similar report it would have been deserving of weight. That would of course have to do with the question whether it was factual, prompt or consistent. But here, as, with great respect, is the position across all five grounds, we think that there is a danger in addressing a criticism to one piece of the reasoning or one reference or comment or observation made by the First-tier Tribunal Judge rather than standing back and examining the decision as a whole.
17. When one does stand back and examine the treatment by the First-tier Judge of the evidence as a whole, including by reference to the decision in **EH** and the relevant provisions that are engaged, we find overall conclusions that the First-tier Tribunal Judge was entitled to make. Whatever pause for thought the cogent submissions of Miss Radford have given us in the course of her treatment of certain of the five grounds, we are left with no lack of confidence that the First-tier Tribunal Judge reached a decision that she was entitled to reach, and explained that reason satisfactorily after a conscientious consideration of the materials as was her duty.
18. In those circumstances the appeal must be dismissed.

Signed

Date

Mr Justice Knowles

Notice of Decision

The appeal is dismissed

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.