



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

Appeal Number: AA/06863/2014

THE IMMIGRATION ACTS

Heard at Field House

On 19th January 2015

**Decision and Reasons
Promulgated**

On 19th February 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

**L L
(Anonymity Direction Made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A De Ruano, instructed by.

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

DECISION AND REASONS

The Appellant

1. The appellant is a citizen of Albania and his date of birth was initially disputed as being on 26th August either in 1994 or 1996. He claimed to enter the UK on 13th October 2013 and underwent a screening interview on 31st October 2013. His asylum interview took place on 5th February 2014. The Secretary of State refused his claim for asylum, humanitarian protection and protection under the European Convention on 28th August

2014 and also made a decision to remove him which the appellant appealed.

2. In a determination dated 20th October 2014 Judge of the First Tier Tribunal Black refused the appellant's appeal on all grounds.
3. An application for permission to appeal was made contending that the Tribunal erred in finding that the age assessment was unchallenged and that no further evidence was produced [9]. It was also submitted that the reasoning in relation to sufficiency of protection was inadequate. Permission was granted by First Tier Tribunal Judge Osborne who stated that the Judge arguably erred in law regarding the age assessment and arguably failed to provide adequate reasons for the findings set out at [14].
4. At the hearing, Ms Isherwood pointed out that the appellant was an adult at the date of the hearing and she relied on **KS (benefit of doubt)** [2014] UKUT 552 (IAC) to demonstrate that the standard of proof is not reduced albeit that the appellant is a child. The Secretary of State acknowledged that the child was born in 1996 and set out why the claim was not accepted. The judge referred to the reasons for refusal letter in her decision. The judge acknowledged his young age in the determination. The claim was in part rejected because of the absence of his mother and although there was an application to adjourn this was not because of the absence of the mother. The judge had looked at the appellant's evidence overall and rejected the claim.
5. I can appreciate that in a succinct decision the judge has addressed various aspects of the evidence and rejected the appellant's credibility. Nonetheless the judge states at [9]

'I place weight on the age assessment report and the letter dated 18th October 2013. The age assessment report has not been challenged on behalf of the appellant and no further evidence produced on that issue'.

6. This was not entirely correct. The age assessment report indicated that the appellant was born in 1994. (It appeared that the judge proceeded on the basis he was born in 1994 and did not enter as an unaccompanied minor). The appellant had, however, subsequent to the age assessment, produced his Albanian passport showing that his date of birth was in 1996 making him a minor at the date of his screening interview and his asylum interview. Indeed the respondent accepted in the refusal letter that the appellant was born in 1996. The relevance of the factor of age was important not only in the assessment of the evidence given whilst he was a minor, it also affected the credibility findings and more crucially the issues of self confinement. As Judge Black reasons at [14]

'The appellant's evidence as to the significance of attaining the age of 16 years carries little weight given that the assessment establishes

that he is older than his claimed age. Therefore the dates given for leaving school and self confinement do not tally and are not credible’.

7. The evidence must be considered in the round and the assessment of the remaining credibility factors, to my mind, are affected by the critical and central finding in relation to the appellant’s age. Indeed rejecting the appellant’s account of his age the judge also proceeded to reject the appellant’s explanation of his mother’s absence from the hearing which the judge found to be crucial.
8. Although, the judge found that the appellant could return and relocate within Albania, the lack of clarity on the age might place the appellant more recently in Albania and as there was no expansion of the reasoning on relocation, merely a reference to the objective material, the issues on self confinement may be material. I therefore find an error of law.
9. The Judge erred materially for the reasons identified. I set aside the decision pursuant to Section 12(2)(a) of the Tribunals Courts and Enforcement Act 2007 (TCE 2007). Bearing in mind the nature and extent of the findings to be made the matter should be remitted to the First-tier Tribunal under section 12(2) (b) (i) of the TCE 2007 and further to 7.2 (b) of the Presidential Practice Statement bearing in mind the nature and extent of the findings to be made.

Signed

Date 19th January 2015

Deputy Upper Tribunal Judge Rimington