



**Upper Tribunal  
(Immigration and Asylum Chamber)**  
AA/08851/2014

Appeal Number:

**THE IMMIGRATION ACTS**

**Heard at North Shields  
Determination Promulgated  
On 6 July 2015  
2015  
Prepared on 7 July 2015**

**On 14 July**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

**Between**

**V. N.  
(ANONYMITY DIRECTION)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Rasoul, Counsel instructed by Morgan Dias  
Immigration Consultants Ltd

For the Respondent: Mr Kingham, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant entered the United Kingdom illegally and claimed asylum on 15 April 2014. That application was refused on 15 October 2014, and in consequence a removal decision was made in relation to her.
2. The Appellant appealed to the Tribunal against the removal decision and her appeal was heard on 9

December 2014, and dismissed by decision of Judge Mark-Bell, promulgated on 23 December 2014. Whilst the Respondent had accepted the Appellant's account of being trafficked into Italy for prostitution for over two years, he was not satisfied the Appellant had told the truth about (a) what had occurred after she had returned to Albania from Italy, and, (b) whether she was in contact with her mother.

3. The Appellant's application to the First Tier Tribunal for permission to appeal, as drafted, raised a number of complaints, although the specific errors of law that they were said to comprise were not identified. That application was granted by Judge De Haney on 26 January 2015 without any analysis of the grounds, on the simple basis that the grounds were arguable.
4. The Respondent filed a Rule 24 Notice of 6 February 2015 in which she asserted that the Judge had given adequate reasons for his adverse credibility findings and that the grounds failed to engage properly with the decision and wrongly asserted that matters had been overlooked when they had not, and that they were no more than a series of disagreements and attempts to reargue the appeal.
5. Thus the matter comes before me.

#### **Error of Law?**

6. The Appellant relied in evidence upon a report from an outreach support worker with the Ashiana organisation of Sheffield dated 13 November 2014. Contrary to the assertions that are made in paragraphs 7 and 11 of the grounds (which she had drafted) and to Ms Rasoul's submissions to me, it is plain from the decision that the Judge had the content of this report well in mind, because he made express reference to it. The Judge referred to this report in the course of his decision twice [3 & 20], and he made specific reference to the Appellant's claimed mental and physical state in his assessment of both her evidence and the risk of harm she faced upon return. Thus the Appellant's vulnerable situation was at the centre of the Judge's consideration. There is no basis in the decision for the assertion that he either overlooked this report, or, failed to engage with its content.
7. Paragraphs 2-6 of the grounds, as drafted, identify no arguable error of law in the decision. When asked to identify what the error of law they referred to was said to be, Ms Rasoul argued that the Judge had failed to appreciate that part of the Appellant's evidence had been accepted by the Respondent as true, and thus he should have "*been more lenient in his consideration of*

*the Appellant's evidence on the disputed issues*". She accepted however that it was plain from the decision that the Judge was well aware that parts of the Appellant's account were disputed, and parts accepted. She also accepted that the Judge had given himself an entirely accurate and adequate self direction on the applicable burden and standard of proof.

8. As Ms Rasoul sought to develop her argument it plainly unravelled, so that it became abundantly clear that this part of the complaint was no more than a disagreement with the Judge's findings. Those findings were adequately reasoned and well open to him on the evidence. Although Ms Rasoul was unable to concede the point I am satisfied that the Judge was right to identify a significant difference between evidence that described attending a police station in response to a specific threat of harm in a telephone call from a specific individual and in order to report that threat to the police, and evidence that described only receiving a threat of harm from that individual after attending a police station and making no report of it. In my judgement it was open to the Judge who had the advantage of seeing the Appellant give her evidence, to take that point against her, and find that if she had been giving him a truthful account she would have been consistent about key features of it.
9. I accept as Ouseley J did in CJ (on the application of R) v Cardiff County Council [2011] EWHC 23, the importance of the approach in Tanveer Ahmed v SSHD [2002] Imm AR 318. Evidence, whether oral or documentary, does not carry with it a presumption of authenticity, which specific evidence must disprove, failing which its content must be accepted. What is required is its appraisal in the light of the evidence about its nature, provenance, timing and background evidence and in the light of all the other evidence in the case, especially that given by the claimant. That is precisely the exercise the Judge undertook. The mere fact that a story is changed, or corrected, in re-examination does not oblige any court or tribunal to ignore what is said under cross-examination, yet ultimately that was Ms Rasoul's argument, and as such there was no merit in it.
10. It is accepted that paragraphs 8, 9, and 10 of the grounds identify no arguable error of law.
11. Paragraphs 12 and 13 of the grounds are an assertion that the Judge failed to consider the country guidance of AB & BM (Trafficked women) Albania CG [2010] UKUT 80 when considering the risk of harm faced by a trafficking victim (as the Appellant is accepted to be) upon her return to Albania. This assertion is made

notwithstanding the Judge's express reference to that decision, and his consideration of it in the context of the other more recent evidence upon the situation within Albania that was placed before him [20-23]. Put simply there is no merit in the assertion.

12. Ms Rasoul then sought to develop an argument to the effect that there had been no assessment of the Appellant's individual circumstances upon return, but this argument was bound to fail in the face of the decision, which shows that the Judge did precisely that. The findings in relation to the Appellant's contact with her mother, her mother's ability to access funds to finance the Appellant's flight to Belgium, and the Appellant's ability to access finance through the dedicated assistance package for victims of trafficking were all open to the Judge on the evidence. (The IOM scheme for such victims is one run on behalf of the Respondent [22].)
13. The Judge also took into account the Appellant's unchallenged claim that her home area was in the rural north, and accepted that there was strong societal discrimination against victims of trafficking in that area, and thus considered whether it was reasonable to expect her to relocate to an urban area upon return. His conclusions on that issue were also well open to him on the evidence, and they too were adequately reasoned.
14. There is in my judgement simply no merit in paragraphs 14 and 15 of the grounds which assert that it was not open to the Judge to consider the evidence of the financial support available to victims of trafficking, as part of his consideration of what her circumstances were likely to be in the event of return. Indeed when the proposition was put in those terms Ms Rasoul appeared to accept the point, and changed tack to suggest that since there was no reference to such a financial support package in AM & BM the Upper Tribunal had not considered such evidence in the context of Albania, and thus it was not open to the Judge to conclude that such a support package would have made an appreciable difference to the Appellant's circumstances upon return.
15. The availability of financial support to returnees from third parties is plainly material evidence, whether its source is the family in the country of origin, the family elsewhere in the world, or the Respondent. In AN & SS (Tamils - Colombo - risk) Sri Lanka CG [2008] UKAIT 00063 the Tribunal held that it was appropriate to take into account the availability of financial support from the Respondent to any returnee, through the Voluntary Returns Programme;

1. Much has been made of the undue harshness which AN will face as a single mother without accommodation or employment and without friends or family to turn to in Colombo, but this is to leave out of account what even Dr Smith acknowledges to be the very generous support package offered by the IOM to voluntary returnees. After "*smoothing the re-entry process*" the IOM provides "*a comprehensive package of support for five years after arrival*", which includes "*five years shelter guaranteed*." We do not think it is open to the appellant to say that, if she loses her appeal, she will not take advantage of this package, and to argue from that refusal that she will face destitution in Colombo which, accordingly, is not a place to which she can reasonably be expected to relocate.

### **Conclusion**

16. I am satisfied that the criticisms that have been advanced of the decision are revealed to be either ill founded, or, at best no more than a disagreement with the Judge's conclusions. The approach taken by the Judge to the evidence in his decision does not disclose any error of law that requires that decision to be set aside and remade.

### **DECISION**

The Determination of the First Tier Tribunal which was promulgated on 23 December 2014 contains no error of law in the decision to dismiss the Appellant's appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

Signed  
Deputy Upper Tribunal Judge JM Holmes  
Dated 7 July 2015

### **Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed  
Deputy Upper Tribunal Judge JM Holmes  
Dated 7 July 2015

