



IAC-AH-CJ-V1

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

Appeal Number: AA/11015/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 6th November 2015**

**Decision & Reasons Promulgated
On 4th December 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**IB
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A De Ruano (LR)

For the Respondent: Mr C Kandola (HOPO)

DECISION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge S Rodger, promulgated on 31st March 2015, following a hearing at Taylor House on 11th March 2015. In the determination, the judge dismissed the appeal of the Appellant, who subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a female, a citizen of Albania, who was born on 16th October 1983. She appeals against the decision of the Respondent Secretary of State rejecting her claim that she had been trafficked to work as a prostitute in Albania and that her life was at risk if she were to be returned now.

The Appellant's Claim

3. The Appellant's claim is that she was in a relationship with an AR between 2004 and 2006 and they married at the end of 2004 and lived in Kosovo but her parents disapproved of the relationship. The marriage was not legally registered in Kosovo as he became very violent. She became pregnant. She did not want to register the marriage. The marriage ended in 2006. When she returned back to her parents she was not accepted by them. She moved to Tirana and lived with a friend. She worked at a coffee shop. She then met AS at the coffee shop and they became friends for some six months and started a relationship. He lent her 1,500 Euros to start a nursing course in October 2007 at the university. In December 2007 AS said that he wanted the money back. She was not able to pay it back. He forced her into prostitution. She was living with AS at the time. He forced her through threats to the family, especially her sisters, and was violent towards her and he had a handgun. AS kept all the money. There were gangsters keeping an eye on her. She was regularly beaten. Her passport was taken away from her. Then a regular client by the name of B helped her to escape. She gave him 2,500 Euros and she escaped to the UK in the back of a lorry. She now fears being re-trafficked by AS or killed by him if she were to be returned to Albania.

The Judge's Findings

4. The judge rejected the claim. He said that her evidence of being trafficked and being forced to work at the hotel every day and being accompanied on her journeys does not sit well with her evidence that she travelled to and from work on the bus (see paragraph 46(7)). The judge went on to say that even if he was wrong to reject the account given by the Appellant she could not succeed on the basis of the country guidance case of **AM**, "as she is an educated, intelligent lady who is likely to be from a relatively wealthy background or be of a high earning potential given that she was able to raise 2,500 Euros for her illegal passage to the UK" (paragraph 52).
5. Her appeal was dismissed.

Grounds of Application

6. The Grounds of Appeal state that the judge attached too much importance to immaterial matters and placed too high a standard of proof on the Appellant.

7. On 6th July 2015, permission to appeal was granted on the basis that it was not clear where the judge found authority for his comment (at paragraph 46.2) that a prostitute would not normally be allowed to keep tips and it was not the Appellant's evidence that the man controlling her knew she was keeping her tips in any event. Moreover, it was accepted that the Appellant was rejected by her family after returning from an abusive relationship and her father disowned her and threatened to kill her.
8. On 30th July 2015, a Rule 24 response was entered to the effect that it will be noted that at paragraph 52 of the judge's determination there is "an in the alternative paragraph" so that there was no material error of law at all. However, the core claim finding at paragraph 46 is that the Appellant's evidence is littered with inconsistencies and the judge lists at least ten examples of this. Furthermore, the judge's finding on prostitutes' tips is a finding made on the evidence of this Appellant who claims to have been escorted to and from a hotel for work and watched very closely over a period of five years and it is not something that needs authority if such a finding had been made on the evidence.

Submissions

9. At the hearing before me on 6th November 2015, Mr Ruano, appearing on behalf of the Appellant, submitted that this was a challenge to the judge's findings of credibility. There was, however, also a challenge to the fact that there was a material error of fact. For example, the Appellant was asked to convert Euros in her oral evidence into British pounds and she should have said 3,000 British pounds but ended up saying 3,000,000 when she converted the figure. Furthermore, at paragraphs 15 to 21 there are some facts about the earlier evidence that had already been accepted. Finally, at paragraph 52 the judge states that even if he were wrong to reject the account of the Appellant he will still find that there is no risk to the Appellant upon return to Albania because, "she is an educated, intelligent lady who is likely to be from a relatively wealthy background ..."
10. For his part, Mr Kandola relied upon the Rule 24 response of the Secretary of State. He submitted that paragraph 21 of the determination plainly sets out what is accepted and what is not. Thereafter, from paragraph 42, to paragraph 52, the judge clearly rejects the nub of the Appellant's claim. The findings of credibility were those for the judge to make on the evidence before him. They cannot be challenged simply because the Appellant disagrees with those findings.
11. In reply, Mr Ruano submitted that the judge had made no contradictory findings but he was wrong to say that because the Appellant is likely to be from a wealthy background she could not have been trafficked.

No Error of Law

12. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007)

such that I should set aside the decision. My reasons are as follows. This is a case where the judge has fundamentally disbelieved the Appellant's claim in every respect. He states that,

"I find it difficult to accept any of the Appellant's evidence as I have found her to be an untruthful witness and I do not accept any of her account. I do not accept that she is at risk from a trafficker or a gang member if she were to return to Albania ..." (Paragraph 22).

13. The judge did not accept that she had been married as there was no marriage certificate. The judge did not accept that she had received any threats from her alleged traffickers. He did not accept that she was at risk from her father. He then relied upon paragraphs 153 to 155 of the **AM** judgment (which is clearly set out at paragraph 53) and held that the Appellant could not succeed. This is nothing more than a disagreement with the judge's findings.
14. It is salutary to bear in mind the Tribunal decision in **Shizad [2013] UKUT 85** where it was made clear that, "although there is a legal duty to give a brief explanation of the conclusions on the central issue in which an appeal is determined, these reasons need not be extensive if the decision as a whole makes sense". This is a case where the decision as a whole makes complete sense.
15. In the context of the determination, when read as a whole, the judge's comments that the Appellant was from a wealthy family was not one that would have affected the outcome of this appeal in any way and consequently I cannot find that there is an error of law such that this decision should be set aside.
16. On the contrary, the determination is clear and comprehensive, and one that the judge was entirely open to reach.

Notice of Decision

17. There is no material error of law in the original judge's decision. The determination shall stand.
18. ~~No anonymity order is made.~~

Signed

Date

Deputy Upper Tribunal Judge Juss

3rd December 2015