



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/06765/2018

THE IMMIGRATION ACTS

Heard at Glasgow
On 21 March 2019

Decision & Reasons Promulgated
On 10 May 2019

Before

MR C M G OCKELTON, VICE PRESIDENT
DEPUTY UPPER TRIBUNAL JUDGE MACLEMAN

Between

HUSEYN ARMUT

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Forrest, instructed by Maguire Solicitors.

For the Respondent: Mr Govan, Senior Home Office Presenting Officer.

DETERMINATION AND REASONS

1. The appellant is a national of Turkey. He appealed to the First-tier Tribunal against the refusal of the respondent on 16 May 2018 to grant him protection under the Refugee Convention or the European Convention on Human Rights. His wife and two daughters are dependent upon his claim (he has another daughter still in Turkey).
2. Judge Agnew dismissed his appeal. He now appeals, with permission, to this Tribunal.

3. The basis of the appellant's claim is that he is a Kurdish Alevi, who after working in a number of places as a chef became Head Chef of the Sirincan restaurant, a famous restaurant in Izmir, some time apparently during 2016. At least one of the owners of that restaurant, Mr Simsek, was thought to have been financing an organisation called FETO. That is the Turkish government's name, Fethullahist Terror Organisation, for an opposition movement inspired by the religious teachings of Fethullah Gülen. There was an attempted coup, thought to have been inspired by FETO, on 15 July 2016. Apparently as a result, the restaurant came under suspicion. According to the appellant the restaurant was run by two senior members of FETO and they were currently in prison. The appellant himself said that he was detained three times within the space of two weeks, some two months after the coup. He was beaten and released only on condition he did not leave his house, and was told to collect information for the authorities. The appellant also claimed that his wife had been sexually assaulted by three people whom she believed to be policeman. She attributed her difficulties to her husband's link with the restaurant. The appellant claimed that these events had caused him to leave Turkey. He said that he had paid agents to arrange the departure of his wife and children, and then himself. He said that he had arrived in the United Kingdom from Turkey on 5 October 2017.
4. At the hearing before Judge Agnew the appellant gave oral evidence. He was cross-examined and further questions were asked by the judge. His wife did not give oral evidence. There was a written statement by Professor W. Bowring which confirmed the existence and fame of the restaurant, and gave various other details about it. Professor Bowring's statement also confirmed that the restaurant was seen as linked with FETO. Professor Bowring also gave some details of the Turkish government's activities against FETO and made a number of other comments, including pointing out that those who had been arrested or detained in the clampdown after 15 July 2015 might not have been very ready to talk about their experiences to others.
5. The judge considered the evidence before her in a decision running to 72 paragraphs. She decided that the appellant's evidence was not to be believed. He was vague and contradictory about almost all the dates of important events. He could give no clear indication of when he started work at the restaurant, nor of when he stopped working there. He could refer to the dates of his detentions and ill-treatment only by reference to 16th July 2016. He gave names for the owners of the restaurant which were different from those given by Professor Bowring in his expertise. He appeared to know nothing about the other personnel at the restaurant, despite claiming to be Head Chef there. He was not aware of which of the owners of the restaurant, or how many of them, had been arrested or imprisoned. He could provide no explanation of why if he was troubled by being detained he had not left his employment at the restaurant and gone elsewhere; and there was no indication of any interest in him after the autumn of 2016, even though he had remained in Turkey, and apparently in Izmir, for another year. That there was no interest in him appeared to be confirmed by the fact that he had left on his own passport. His accounts of how he left were also contradictory: first he said he paid agents, then he said he transferred a car and a house to them.

6. Because the judge did not consider the evidence was, or might be, the truth, she dismissed the appeals. The grounds of appeal, in full, read as follows:

“PARAGRAPH 33

At the hearing or the interview the appellant was not asked specific dates of detention and hence this information was not forthcoming. Therefore to come to adverse conclusion was an error in law.

PARAGRAPH 41

The 2 names given by the expert were not known and the Tribunal had the benefit of having the employment contract. Even if the owners have changed that may be the case now compared to when the appellant was in Turkey.

PARAGRAPH 45

The IJ erred in law because it is not possible to know who else was arrested or not.

PARAGRAPH 61

The IJ erred here because the appellant had said that the deeds were transferred to the relevant parties.”

7. Permission was given by Judge Shaerf in a decision running to nearly a full page, which expands on the grounds and explains why it might be thought that the judge had misinterpreted or misapplied the evidence before her. Before us, Mr Forrest expanded on the grounds.
8. We have considered the evidence with care, and in the light of Mr Forrest’s submissions. It seems to us that there is not the slightest reason to suppose that the appellant was telling the truth about his experiences. There is no doubt that the restaurant exists, nor, in the circumstances, is there much doubt that its Head Chef would have been of interest to the authorities. The question is whether the appellant had anything to do with the restaurant. As the judge noted, there are numerous reasons to propose that he did not stop.
9. Contrary to what has been asserted in the grounds, there was and is no contract of employment in evidence. The truth of the matter is that although the appellant knew the name of the owner who had been mentioned in press reports, he did not know the names of the other two owners of the restaurant. Indeed he claimed that they were two other people altogether. Next, although he claimed to be Head Chef, he claimed also to be unaware of whether there had been any absences from work that might be attributable to arrests following the attempted coup. Thirdly, he could, as we have already noted, give no clear evidence of when it was that he claimed to have worked for the restaurant. The judge noted that all he was able to say in terms of the dates of his employment or his detentions was that they were so many months or weeks before or after 16 July 2016.
10. It seems to us in the highest degree likely that the appellant’s knowledge of the restaurant was limited to what he had read in the press, and that that was why he was unable to expand with any accuracy at all on details of the restaurant or of his

alleged work at it. It is all very well to say that there are no details of how many of the other staff there were arrested, or that they might not be prepared to talk about their experiences, but the Head Chef would know which of his staff were present and which were not. There is simply no reason to suppose that Professor Bowring and the appellant were talking about the ownership of the restaurant at different times, nor is there any reason to suppose that the ownership of the restaurant had changed at any relevant time: the position is simply that this appellant's knowledge of the restaurant where he claimed to work was minimal.

11. The final ground of appeal relates to the appellant's varying accounts of his departure. Again, he was unable to give any clear account of how his departure had been arranged: as the judge noted, he had first said that he had paid agents, then he said he sold a house and a car and gave them the money, then he said he gave his house and his car to the agent, but did not sell them. Then he said he had given his car to the agent. As the judge noted, this evidence "casts a question mark over whether illegal agents were used at all, rather than the possessions of the family [being] sold simply as they did not intend to return".
12. We do not regard this even as a case where a different judge might have taken a different view of the evidence. In our judgment the judge was amply entitled to reach the view she did about the evidence, and we think that any other judge, properly instructed, would have reached a similar view. Certainly, there is nothing in the grounds of appeal which gives any reason to suppose that the judge erred in law.
13. For the foregoing reasons we dismiss this appeal.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 24 April 2019