



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

Appeal Number: PA/01411/2019

THE IMMIGRATION ACTS

**Heard at Birmingham Civil Justice
Centre
On 8 January 2020**

**Decision & Reasons Promulgated
On 24 January 2020**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

**SSH
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. A. Islam, Counsel, instructed by Fountain Solicitors
(Walsall)

For the Respondent: Mr. C. Howells, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Gribble, promulgated on 1 May 2019, in which she dismissed the Appellant's appeal against the Respondent's decision to refuse a grant of asylum.
2. I make an anonymity direction continuing that made in the First-tier Tribunal.

3. Permission to appeal was granted as follows:

“It was contended at paragraph 2 of the grounds that the judge failed adequately to assess whether the appellant would be able to obtain a CSID or a passport. The judge, however, was entitled to place weight on inconsistencies in the appellant’s evidence, tendered at different times, as to what became of his CSID. In his witness statement, to which the judge referred at paragraph 35 of the decision, the appellant stated that his CSID was with his parents with whom he was not in contact. In his oral evidence he said that his CSID was lost in Turkey and had not remained with his parents. The judge on cogent grounds rejected the appellant’s claims as to the whereabouts of his CSID and accordingly the judge was justified in finding, as the judge did at paragraph 39 of the decision, that his mother or father could send him his CSID whereupon the appellant could attend the embassy in the United Kingdom and obtain a replacement passport.

Nevertheless, for the reasons mentioned in the remaining grounds of the application the judge’s decision disclosed arguable errors of law but for which the outcome of the appeal might have been different. First, the judge placed not inconsiderable weight on the omission of the appellant to present certain claims of fact at his screening interview. As the judge acknowledged at paragraph 35 of the decision, “time is short in such interviews”, and the judge arguably had regard to an irrelevant consideration in according weight to the appellant’s omission to mention facts on which he later relied. The judge’s arguable error was compounded by the judge’s somewhat cursory assessment of the appellant’s credibility upon which the Judge embarked at paragraphs 35 to 37 inclusive. The judge arguably did not embark upon that global assessment which is the essence of an assessment of credibility. The application for permission is granted.”

4. I note that although it appears that the judge granting permission did not consider ground 2 to be particularly strong, it does not appear that the grant has been limited.
5. The Appellant attended the hearing. I heard submissions from both representatives, following which I reserved my decision.

Error of law

6. I will consider first Grounds 1 and 3, which are connected, and which relate to the credibility assessment. Mr. Islam submitted that there was a very brief consideration of the core of the Appellant’s claim. The Judge did not expand on her credibility findings regarding the core of the claim and, had she done so, she would have reached a different conclusion. He submitted that there was no adequate consideration of the three “major issues” with reference to [34] where the Judge found that the Appellant had failed to mention three “major issues” at his screening interview. However, there was no consideration in the decision of the evidence relating to those three major issues.
7. I have carefully considered the Judge’s findings which are set out from [27] to [43]. The Judge states at [27] that whether there is a real risk of

persecution depends on the credibility of the account presented. She finds that the Appellant is from the IKR and of the Haruni tribe, as was accepted by the Respondent. She then states at [28]:

“I will begin my assessment of his evidence by looking at the credibility indicators of the account through the lens of **KB & AH (credibility structured approach) Pakistan [2017] UKUT 00491 (IAC)**. This case tells me among other things, that I should adopt the structured approach laid down in Article 4 of the Qualification Directive, itself adopted within paragraph 339L of the immigration rules. It tells me also however that I should note that these factors are not an exhaustive list; the assessment is fact-specific, the evidence should be considered as a whole.”

8. There is no error in this statement of the approach that she is taking. However, I find that she has not followed this as she has not considered the evidence as a whole.
9. From [29] to [38] the Judge has set out her reasons why the Appellant does not meet the credibility indicators, and should not be given the benefit of the doubt. She has done this by reference to the factors set out in Article 4 of the Qualification Directive. However, as she set out at [28], the Qualification Directive makes clear that these factors are not an exhaustive list and that the evidence should be considered as a whole. I find that the Judge has not done this. She has not considered the Appellant’s account. At [34], the Judge states that she is considering his general credibility and the “core account”. This is the only paragraph where the core of the Appellant’s claim is considered. She refers to three “major issues” in the Appellant’s claim which the Appellant did not mention at his screening interview. The Judge has discounted these issues simply because they were not referred to at the screening interview. She has not set out whether the Appellant gave any explanation for this, and she herself acknowledges that time is short in such interviews.
10. Although she lists the issues - the murder of D, the murder of his sister-in-law, and the fact that D’s brothers were in the PUK - there is no consideration of the evidence relating to those issues, which clearly went to the core of the Appellant’s claim, and which the Judge herself labelled as “major”. She has given weight to the fact that he did not refer to them at his screening interview, but has not considered the evidence which he did provide regarding these issues.
11. I find that the decision does not contain an adequate consideration of the Appellant’s account. There is only one paragraph in the Judge’s conclusion which refers to the core of his claim. While the Judge was entitled to adopt the approach she set out at [28], she did not in fact adopt this approach, as she did not consider the evidence as a whole. The decision does not contain an assessment of the core of the Appellant’s claim, in particular the three issues which the Judge herself considered to be “major”.

12. I find that the Judge's consideration of the evidence is inadequate. I find that her failure properly to consider the evidence as a whole is a material error of law.
13. In relation to Ground 2 and the CSID, whereas I accept the points as set out in the grant of permission regarding the evidence of the whereabouts of the CSID, whether or not the Appellant can return to the IKR is dependent on whether or not his claim is accepted to be true. I have found that this has not been properly considered.
14. I find that the decision involves the making of material errors of law. I have taken account of the Practice Statement dated 10 February 2010, paragraph 7.2. This contemplates that an appeal may be remitted to the First-tier Tribunal where the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for the party's case to be put to and considered by the First-tier Tribunal. Given the nature and extent of the fact-finding necessary to enable this appeal to be remade, and having regard to the overriding objective, I find that it is appropriate to remit this case to the First-tier Tribunal.

Decision

15. The decision of the First-tier Tribunal involves the making of material errors of law and I set the decision aside.
16. The appeal is remitted to the First-tier Tribunal to be reheard de novo.
17. The appeal is not to be listed before Judge Gribble.

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 his 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.

Signed

Date 17 January 2020



Deputy Upper Tribunal Judge Chamberlain