



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

Appeal Number: AA/03667/2013

THE IMMIGRATION ACTS

Heard at Field House

**Decision &
Promulgated**

Reasons

On 24 June 2015

On 30 June 2015

Before

UPPER TRIBUNAL JUDGE McWILLIAM

Between

**SUSANRAVISANTH THARAMARAJAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Paramjorthy, Counsel, instructed by Vasuki Solicitors

For the Respondent: Miss A Holmes, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Sri Lanka and his date of birth is 4 July 1988.
2. The appellant made an application to vary his leave to remain in the UK as an asylum seeker having been granted limited leave to enter on 17 May 2012. This was refused by the Secretary of State in a decision of 27 March 2013. He appealed against this decision and his appeal was dismissed by Judge of the First-tier Tribunal N J Bennett, in a determination dated 17 January 2014, following a hearing at Hatton Cross on 4 December 2013.

3. The appellant was granted permission to appeal by Upper Tribunal Judge Chamberlain on 12 March 2015. Thus the matter came before me.
4. The appellant's evidence before the First-tier Tribunal was that in March 2007 he joined the LTTE and he completed training with them. He transported ammunition, for the LTTE, from a supply point to the battle front. The appellant and his family were taken to an IDP camp where they were held for eight months. The appellant made an application to study in the UK and this was successful and he was granted a visa on 4 October 2010. He came to the UK on 14 October 2010 and made a further application for an extension which was granted until 9 January 2014. He returned to Sri Lanka on 23 January 2013 in order to visit his mother who had a motorbike accident. He was arrested in Sri Lanka on 26 January 2013 and he was detained for ten days during which time he was ill-treated. His parents paid a bribe which secured his release and he left Sri Lanka on 7 February 2013 with the help of an agent.
5. The First-tier Tribunal heard evidence from the appellant and Mr Manimaran Kaliyamoorthy. There was a medical report relating to scarring on the appellant's body prepared by Dr A I Martin. In addition there was a medical certificate relating to the appellant's mother and photographs relating to *sur place* activities.
6. Mr Paramjorthy relied on the grounds seeking leave to appeal and he did not make any oral submissions.

Conclusions

7. It is maintained in the grounds that the Judge erred in relation to Mr Kalamorthy's evidence in finding that it could only substantiate the outline of the appellant's evidence about his involvement in the LTTE. Mr Kalamorthy made a witness statement which is at pages 2-5 of the appellant's bundle. His evidence was that he lived next door to the appellant in Kilinochchi and that the appellant was recruited by the LTTE at the beginning of 2007. He maintained that he saw the appellant on a number of occasions with LTTE members and LTTE police members. He maintained that the first time he met him the appellant told him that he had been given basic military training by the LTTE and that they had sent him to the LTTE's police unit and he was doing work behind the battlefronts. He also told him that he was based in the Elephant Pass area. He did not see the appellant after the beginning of 2009 up until he met him in the UK at a temple in Ealing on 10 May 2013.
8. The Judge did not dismiss the appellant's appeal on the basis that he had had no involvement with the LTTE. It is what the appellant did for the LTTE and that he was subsequently arrested as a result of these activities that the Judge did not accept. The Judge was entitled to conclude that Mr Kalamorthy's evidence did not corroborate the appellant's evidence in this respect. In any event, what weight to attach to this evidence was a matter for the Judge.

9. It is maintained in the grounds that the Judge's finding relating to internment is unsustainable. It is maintained that the background evidence does not demonstrate that the appellant's account of not being identified supports the proposition that he was not interned. There is no merit in this ground of appeal. What the Judge found is that the appellant's account of internment was not credible. He did not find it credible that no effort would have been made in order to determine whether or not the appellant had been involved with the LTTE and he did not find it credible that the appellant and his parents would not have been screened. These findings were entirely open to the Judge on the evidence before him. There is no background information adduced by the appellant that would lead me to conclude otherwise.
10. It is maintained in the grounds that the Judge erred in concluding that it was not credible that the appellant had left Sri Lanka on his own passport because as the Upper Tribunal noted in **GJ and Others (Post-civil war: returnees) CG [2013] UKUT 00319**, there is pervasive bribery and corruption at the airport in Sri Lanka. There is no merit in this ground because it was fully acknowledged by the Judge at [56] that bribery and corruption is widespread and at [58] the Judge took into account that an ability to leave Sri Lanka without difficulty is not probative of a lack of interest because of the prevalence of bribery. However, in my judgement, the Judge considered this evidence in the round and was entitled to draw adverse inferences from his evidence of having left Sri Lanka undetected whilst he was wanted by the authorities having escaped by way of a bribe.
11. The grounds maintain that there is a direct contradiction between the findings of the First-tier Tribunal and the evidence of Mr Martin in relation to the causation of scarring. The case of **AV (Scarring - medical evidence) [2014] UKUT 230** is relied upon. However, the grounds do not fully reflect the decision of the First-tier Tribunal.
12. The Judge properly considered the medical evidence in the round (see [62]). He accepted that the appellant had recent scarring. He did not make a finding that the scars were self-inflicted as suggested in the grounds. At [61] he stated that it was not for him to speculate about possible explanations for the scarring. However, he considered the appellant's "overall credibility" and he rejected the appellant's evidence in relation to the scarring finding (at [61]) that there were "serious questions about his overall credibility." At [60] the Judge put forward possible alternatives, but he does not go on to make a finding as to how the scarring was caused. However, having considered the evidence in the round he did not find the appellant's account to be credible. This finding must be viewed in the context of the adverse credibility findings generally.
13. The grounds seeking permission argue that the Judge did not take into consideration the appellant's *sur place* activities. The appellant's evidence relating to these activities was scant and, in any event, it was not a matter referred to in the skeleton argument or by Counsel who represented the appellant before the First-tier Tribunal. The Judge adequately dealt with

the issue at [63]. The appellant's case was that he would be at risk on return as a result of his past activities and the Judge rejected this evidence. There was some evidence that he was involved in *sur place* activities, but his case was not presented on this basis. In any event, it is unarguable that the evidence in relation to *sur place* activities, if accepted, would put the appellant into a risk category as identified in GJ and Others

14. There are other grounds in the grounds seeking permission, but Mr Paramajorthy conceded that whether there is any merit in them depended on a finding that there is an error in relation to the above grounds that I have dealt with. It follows, in the light of my conclusions above, the remaining grounds fall away.
15. The Judge found the appellant to be lacking in credibility for many reasons which are not touched upon in the grounds seeking leave to appeal. The most significant inconsistency found by the Judge was in the appellant's own evidence in relation to his activities with the LTTE (see [39] and [40]). Indeed, Counsel at the hearing before the First-tier Tribunal, accepted that there were "difficulties" with this part of the appellant's evidence. There are further significant inconsistencies not touched upon in the grounds seeking leave to appeal in relation to the appellant's parents and father (see [48], [49], [50] and [52] of the determination). In addition, the Judge did not accept the appellant's reason for returning to Sri Lanka in January 2013. He placed no weight on the documentary evidence produced by him. He did not accept the appellant's evidence of the circumstances surrounding his release from custody (see [53]). These findings are not challenged in the grounds seeking leave to appeal.
16. There is no error of law disclosed in the grounds of appeal. The decision of the Judge is lawful and sustainable and the decision to dismiss the appeal is maintained.

Notice of Decision

The appeal is dismissed.

No anonymity direction is made.

Signed Joanna McWilliam

Date 29 June 2015

Upper Tribunal Judge McWilliam