



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/00288/2016

THE IMMIGRATION ACTS

Heard at Field House
On 20th December 2017

Decision and Reasons Promulgated
On 09th February 2018

Before

DEPUTY JUDGE FARRELLY OF THE UPPER TRIBUNAL

Between

MR M. H
(ANONYMITY DIRECTION MADE)

Appellan
t

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs A Mughal, Counsel, instructed by Montague Solicitors

For the Respondent: Mr.D.Clarke, Home Office Presenting Officer.

DETERMINATION AND REASONS

Introduction

1. The appellant has been granted permission to appeal the decision of First-tier Judge C M Phillips who dismissed his claim for protection.

2. He is an Albanian national, born in March 1998. His claim was that he was at risk from a criminal gang because of his father's work as a policeman. He claims that he was kidnapped so pressure could be put on his father. Whilst captive he was forced to deliver drugs. He made his claim for protection in September 2014 by which stage he was 16 years of age. A referral was made to the Competent Authority who found he had been trafficked.
3. The respondent accepted his father had been in the police but had since left. Consequently, the respondent concluded he was no longer at risk from the gang. Furthermore, there was sufficient State protection available and the reasonable option of relocation.
4. At the time of his appeal hearing in August 2016 he was 18 years of age. His evidence at hearing was that he remained in contact with his mother who told him that his father was in hiding.
5. First-tier Judge C M Phillips did not accept that his father was in hiding, pointing out that up until the hearing he had not mentioned any problems. He had earlier said he had been in touch with both parents. He has a large immediate and extended family who remain safely in Albania, including six sisters. There was no evidence they had been targeted. The judge said there was no evidence to show that the gang still operated. In conclusion, the judge did not accept the gang presented as a threat.
6. The judge also found that there was sufficiency of protection and, if necessary, internal relocation was viable.

The Upper Tribunal

7. Permission to appeal was granted on the basis it was arguable that First-tier Judge C M Phillips did not make sufficient allowance for the appellant's age and the fact it was accepted he had been trafficked. It was also arguable the Judge failed to give adequate consideration to the appellant's claim in relation to previous attempts to obtain assistance from the authorities and the reasonableness of relocation, bearing in mind his circumstance.
8. Mrs A Mughal, for the appellant, referred to the fact it was accepted his father was in the police; that he had been kidnapped; and trafficked. She submitted there was no proper assessment of the risk for him on return and whether he was likely to be re-trafficked. She submitted it was not logical to

reject these aspects of his claim in light of what had been accepted.

9. Mr.D.Clarke, on behalf of the respondent, submitted he was no longer at risk as his father had left the police. The rationale behind his kidnapping was to make his father do the gang's wishes: that reason had now disappeared. There was no evidence the men had approached his family. There had been no reference to his father being in hiding until the hearing. To the contrary, he has said in a witness statement lodged shortly before the hearing he was in contact with both parents. By the time of hearing the appellant was an adult and the judge was entitled to reject this claim. There was no evidence his family had been threatened. The judge at paragraph 41 pointed out that with the passage of time since his escape in September 2014 there was nothing to suggest he remained of interest to any malefactors. Mr.D.Clarke accepted that the judge at paragraph 47 had not gone into detail on the question of internal relocation beyond saying it was viable. However, the finding was that he was not a risk in his home area and so the question of relocation was not material.

Consideration

10. The appellant's claim had been considered by the respondent under the protocol in relation to children. When he was interviewed in May 2015 a responsible adult was present. He had provided a statement and had been assisted by a solicitor. In it, he indicated he was kidnapped in August 2014 because of his father's position as a high-ranking officer combating drugs. His statement was that the men told him they were using him to put pressure on his father to facilitate their activities. He then managed to escape the following month and returned home. He provided documentation to the effect that his father resigned from the police in December 2014.
11. The respondent carried out checks with the British Embassy in Tirana. Their sources confirmed that the appellant's father who was born in 1961 ended his employment with the police in December 2014. It states he specialised in serious crimes. His employment ended at his request but no specific reason is given. In the appellant's interview he indicated that he was taken by criminals so that they could get at his father who was involved in combating their crimes. The point made by the respondent is that now his father is no longer in that position there is no reason for criminals to have a sustained interest. The Competent Authority has accepted the appellant was trafficked. However, his activities were limited to delivering packages and manual work. As such he would be replaceable and there is nothing to

indicate why he would be of ongoing interest. The respondent has also made the point that the appellant's family remain in Albania. It is clear that at a late stage the appellant has sought to counter this by claiming his father is in hiding. However, this is in contradiction to his statement of 26 July 2016 submitted days before the hearing. In it, he states he continues to be in contact with his parents.

12. Given the facts which are not disputed I cannot see any error of law established on the part of the judge on the basis the appellant was his claim was being considered was a minor who had been trafficked. Rather, the assessment of the risk followed from the facts which were not contentious. This indicated that the gang if they still existed would have no reason to pursue the appellant. Allied to this was the acceptance there was sufficiency of protection. As acknowledged by the presenting officer, the judge could have dealt in greater depth with the issue of relocation. However the primary finding was that the appellant did not face a risk in his home area. I find no material error established in respect of that and so the question of relocation is superfluous.

Decision.

No material error of law has been established. The decision of First-tier Judge C M Phillips dismissing the appeal shall stand.

Francis J Farrelly
Deputy Upper Tribunal Judge
Dated 07 February 2018