



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

Appeal Number: PA/00182/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 7<sup>th</sup> December 2017**

**Decision & Reasons  
Promulgated  
On 10<sup>th</sup> January 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE GRIMES**

**Between**

**MR SV  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Malik instructed by Ansah Solicitors

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Liberia, appealed to the First-tier Tribunal against a decision made by the Respondent on 14<sup>th</sup> December 2016 to refuse the Appellant's application for asylum and leave to remain on the basis of his private and family life in the UK.
2. The background to this appeal is that the Appellant claims that his family home was attacked in Monrovia in September 1990 and his family fled. The Appellant claims that he was subsequently found by Charles Taylor rebels and was taken along with five other men and forcibly recruited and

that he remained with the rebels for eight years. He says that he ran away to the port where he obtained a job working as a porter loading and unloading goods from boats. He claims that he met a Greek sailor who promised to help him and in June 1997 the sailor hid him in his cabin for weeks until the ship arrived in the UK on 10<sup>th</sup> August 1997. The Appellant claims that he slept rough before meeting a Ghanaian woman and her husband who provided him with support in return for him undertaking household chores. He claims that he was asked to leave there and then move to London and lived rough for a period of time. He claims that he became ill and underwent an operation for his liver. It is the Appellant's case that in 2014 he began a brief relationship with a Ghanaian woman resulting in the birth of his son on 10<sup>th</sup> November 2015. He claims that he is no longer in a relationship with the woman but sees the child every day. On 24<sup>th</sup> May 2011 the Appellant lodged an application for leave to remain under Article 8. That application was refused in July 2011. An application for the reconsideration of that application was also rejected. In June 2016 the Appellant made an application for asylum.

3. The First-tier Tribunal Judge heard oral evidence from the Appellant. The judge noted a number of matters which went against the Appellant's credibility at paragraphs 15 to 22 of the decision. These include inconsistencies in the Appellant's account as to how he travelled to the UK, how long he claims that he fought for the rebels, when he travelled to the port and how long he worked there, how far his location with the rebels was from the port and when he left Liberia. The judge also took into account the delay of nineteen years before the Appellant claimed asylum.
4. The judge went on to find that the Appellant is not at risk if returned to Liberia finding that he could not accept any part of the Appellant's claim. The judge considered the human rights claim looking at the Appellant's claimed relationship with his 15 month old child [24]. The judge noted that the Appellant had not submitted any evidence from the child's mother or any evidence that he sees the child, nor had he submitted any photographs or documentary evidence. The judge noted that the Appellant had said in oral evidence that he took the child to the library but the judge found it implausible that the Appellant would take his 15 month old child to the library. The judge found that the Appellant has no contact with his child and there is no family life and that in these circumstances the Appellant could not succeed under Article 8 [25].

### **Error of law**

5. The Grounds of Appeal raise a number of issues in relation to the Appellant's claim. There are five grounds. The first ground contends that the judge failed to make clear credibility findings.
6. It is asserted that the credibility findings are undermined by the significant delay between the hearing and the judge's promulgation of the decision, said to be a period of almost four months and that this was contrary to

guidance in case law and in particular the case in **SSHD v RK Algeria [2007] EWCA Civ 868** and in the Presidential Guidance Note No.1 of 2014. At paragraph 20 in the case of **RK** the Court of Appeal highlighted and cited from the Tribunal decision of **Mario [1998] Imm AR 281** which indicated that in an asylum appeal the Tribunal would usually remit a case to another judge where the period between the hearing and the dictation of the determination is more than three months. In my view this ground has not been made out because the decision of the First-tier Tribunal indicates that the hearing was on 6<sup>th</sup> February 2017 and that the decision was signed on 5<sup>th</sup> May 2017. It was not promulgated until 1<sup>st</sup> June 2017. Whilst this does indicate that there was a delay between the hearing and the signing of the decision, this delay is just at the end of the three month period considered by the Supreme Court. There is no separate submission that the judge failed to take into account any factors in assessing credibility and in my view the delay in signing the decision does not in itself disclose a material error in this case.

7. The Appellant contends in the second Ground of Appeal that the judge failed to deal with paragraph 276ADE(1)(vi) of the Immigration Rules. At the hearing before me Mr Malik relied on the skeleton argument placed before the First-tier Tribunal which highlighted that the Appellant's length of residence was a factor to be considered in relation to paragraph 276ADE(1)(vi). Mr Malik accepted that there was a lack of evidence going to the Appellant's length of residence in the UK but relied on the decision in **ZH (Bangladesh) v SSHD [2009] EWCA Civ 8** to support the contention that in the circumstances in which he was residing in the UK the Appellant may not have a lot of documentation to show residence throughout that period. He also submitted that the judge failed to deal with the Appellant's medical condition. In the First-tier Tribunal skeleton argument it is asserted that the Appellant has been suffering from a number of medical problems. At page 2 of his witness statement before the First-tier Tribunal the Appellant said that he had undergone an appendix and liver operation and was currently under the care of King's College Hospital. Mr Malik also referred to documents at pages 41 and 42 of the Appellant's bundle which showed appointments for the Appellant for an ultra sound and at the liver outpatient clinic at King's College Hospital. He accepted that this was not enough evidence in relation to this matter but submitted that it was an error on the part of the judge to fail to engage with that.
8. I note that in terms of his private life in his witness statement the Appellant said at page 3 "I have established a strong private life in the UK". The Appellant referred to having been law abiding and had no known criminal record in the UK. He also referred to his time living on the streets in London and his medical issues arising from that. However there is no detail in the Appellant's statement and no other evidence as to the nature and extent of the Appellant's claimed private life in the UK. As acknowledged by Mr Malik there is very little evidence about the Appellant's claimed medical conditions and their relevance to his stay in the UK or elsewhere. I accept that the First-tier Tribunal Judge did not

specifically engage with the Appellant's private life as a separate matter under his assessment of Article 8. Had he done so he would have been required to look at paragraph 276ADE(1) (vi) in the first instance which provides:

"276ADE (1). The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:

...

(vi) subject to sub-paragraph (2), is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK."

9. In my view there was insufficient evidence before the First-tier Tribunal Judge to show that there would be very significant obstacles to the Appellant's integration into Liberia. In terms of a wider ranging assessment of private life under Article 8 there is insufficient evidence to show the nature and extent of any private life developed in the UK. Apart from the length of time the Appellant claims to have been in the UK there is no further evidence in relation to his private life. There is insufficient evidence for the judge to have made any conclusions in relation to the Appellant's private life which could have added anything to the judge's assessment of the Appellant's Article 8 rights carried out in paragraph 24. Therefore this Ground of Appeal discloses no material error.
10. It is contended in the fourth Ground of Appeal that the judge failed to attach weight to the considerations in Section 117B of the Nationality, Immigration and Asylum Act 2002. However it does not appear that there was any evidence before the First-tier Tribunal Judge to establish that the Appellant was financially independent. Whilst it may be that the Appellant can speak English this in itself may at most be a neutral factor in terms of assessing proportionality. There is little evidence of the Appellant's integration into society in the UK. In these circumstances there is no material error in the judge's failure to specifically consider Section 117B.
11. At the hearing before me Mr Malik asserted that the judge had failed to undertake an assessment in terms of the risk to the Appellant on return to Liberia. However the judge undertook an assessment of the Appellant's evidence and found that the evidence was not credible, accordingly it is clear from the conclusion at paragraph 23 that the judge found that the Appellant had not established that he was at risk on return to Liberia. Mr Malik contended that the judge failed to take into account the Appellant's explanation for his delay in claiming asylum as set out in his witness statement where he said that he was let down by his previous advisors, made the wrong application and knew nothing about asylum. However it is unclear how this evidence is sufficient to show good reasons for a delay

of nineteen years in claiming asylum. On the basis of this evidence the judge's conclusion that the Appellant's solicitors did not make an asylum claim earlier for the Appellant because he had not told them about it was open to him. This ground has not been made out.

12. It is contended on the fourth Ground of Appeal that the judge erred in his assessment of the Appellant's family life in the UK because, if there was an error in his credibility assessment this would have affected his assessment of the evidence as to the child, the Appellant's family life and relationship with his child. The judge concluded at paragraph 24 that there was no evidence from the child's mother and no other evidence that the Appellant sees the child every day as claimed. In light of the adverse credibility findings made against the Appellant the judge concluded that his oral evidence on this matter was not sufficient. In his witness statement before the First-tier Tribunal Judge the Appellant said very little about his claimed relationship with his child. Accordingly the findings at paragraph 24 were open to the judge on the basis of the evidence before him.
13. At the hearing Mr Malik further asserted that the judge's assessment of the human rights appeal was inadequate because the judge had failed to undertake an assessment of the best interests of the child based on the Appellant's oral evidence. In relation to the best interests of the child it is difficult to see how the judge could have undertaken any assessment of the best interests of the child in the absence of any other evidence as to the child. In these circumstances the conclusions of the judge at paragraph 24 were open to him on the evidence before him.
14. For all of the reasons above in my view it is clear that there was no material error in the decision of the First-tier Tribunal Judge.

### **Notice of Decision**

There is no material error in the decision of the First-tier Tribunal Judge.

The decision of the First-tier Tribunal shall stand.

### **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 their 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: 8<sup>th</sup> January 2018

Deputy Upper Tribunal Judge Grimes



**TO THE RESPONDENT**  
**FEE AWARD**

As the appeal has been dismissed there is no fee award.

Signed

Date: 8<sup>th</sup> January 2018

Deputy Upper Tribunal Judge Grimes