



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/03204/2018

THE IMMIGRATION ACTS

Heard at Field House
On 26th July 2018

Decision & Reasons Promulgated
On 02nd August 2018

Before

UPPER TRIBUNAL JUDGE KING TD

Between

O L

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Iqbal of Counsel instructed by SMA Solicitors

For the Respondent: Ms K Pal, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Albania who was encountered upon arrival in the United Kingdom on 7th July 2014 using false Italian documents. She claimed asylum at the port.
2. It was the case as advanced by her that she was in effect trafficked from Albania to Malta. She was used for sexual purposes by a person whom she had previously regarded as her boyfriend. She had then been instructed to travel to the United Kingdom to work as a prostitute for him there and it was in the course of that journey

that she was encountered. It was her fear that if returned to Albania she would once again be trafficked as a sex worker.

3. In the decision of 15th February 2018 the respondent did not accept the credibility of that account and considered that the appellant could safely return to Albania. The case was considered by the competent authority caseworker in respect of trafficking who, in a comprehensive decision, so concluded that she was not the victim of human trafficking.
4. Thus it was that the appellant sought to appeal against the respondent's decision to the First-tier Tribunal. Her appeal came before First-tier Tribunal Judge Walker on 9th April 2018. In a decision promulgated on 19th April 2018 her claim was dismissed.
5. Although the judge acknowledged that she should be treated as a vulnerable adult, nevertheless the credibility of her claim was found to be lacking. Although there was medical evidence as to her adverse mental health and PTSD it was considered that such did not prevent her treatment in Albania or her return to it.
6. In essence the challenge now made to that decision is that it failed to properly put the medical evidence into the overall context of the claim so as to evaluate it, both in terms of credibility as well as safety of return.
7. Permission was granted on that basis to the Upper Tribunal and the matter comes before me to determine that issue.
8. The medical evidence is set out in the bundle and it is of some considerable extent. The evidence from her general practitioner was to the effect that she had the depressive illness since 2014 and had consulted the medical authorities since that date and received treatment and counselling. There was a letter from Richmond Wellbeing Service dated 24th November 2014 noting a meeting with the appellant on 10th November 2014 for initial assessment which speaks of her being tearful and distressed when outlining her ordeal. She did not want to talk about what had happened to her but wanted to try and forget about it. She had nightmares of people raping her. Treatment was suggested and a further letter from the same service in 2016 speaks of her continuing to struggle with her mood and the need to have long term support.
9. There is evidence from Central and North West London NHS in Harrow dated 2017 concerning her mood and treatment and medical records and a further note from MIND of 23rd March 2018 setting out her experiences in Malta and the consequences of her experiences to her mental wellbeing. There are other reports, particularly from Hibiscus Initiatives and Hestia concerning her mental state. It is accepted by the First-tier Tribunal Judge that indeed the appellant was suffering from PTSD.
10. The Judge did not find the claim to be a credible one. It was not accepted that the appellant, if she had been trafficked as claimed, would have been allowed to come to the United Kingdom unescorted and with her own documents.

11. Part of the credibility assessment was the lack of detail which was given as to her experiences in Malta.
12. In that overall analysis no overt reference had been made to the medical evidence that had been presented. In the assessment and acceptance of PTSD perhaps was relevant to consider what possible cause might have led to that condition, it being the consistent account of the appellant to the medical authorities that it was the way in which she had been treated which led to her condition. It is contended in argument before me that at the very least the medical evidence should have been considered as part of the evidence in terms of coming to a conclusion as to credibility. It had the potential of supporting credibility and consistency of account.
13. Part of the assessment of credibility, as set out in paragraph 37 of the decision, was the vagueness of the account and the lack of detail that was presented. Of course, that may be explained by the medical evidence that the appellant was seeking to put matters to the back of her mind and that might have been a possible explanation for the vagueness.
14. It was submitted that overall the medical evidence should have been assessed in the evaluation as to credibility.
15. Similarly it is contended that, in any event, the medical evidence was dealt with very briefly indeed in paragraph 47 with little reasoning given as to why such condition was not caused by trafficking and little reason given as to the depression and potential suicide as mounting a claim for protection presenting in its own right a risk on return.
16. Overall it is contended that there was an inadequate consideration of the medical evidence and lack of findings relating to it in the assessment of the claim, both as to its merits and to the ability to return.
17. It seems to me in the circumstances that the complaint is one to be upheld such as to vitiate the safety of the credibility findings that have been made. In the circumstances the decision should be set aside to be remade upon a proper evaluation of all the facts including the medical evidence.
18. Having regard to the Senior President's Practice Direction this rehearing should be entertained by the First-tier Tribunal. Accordingly, the matter is remitted to the First-tier Tribunal for that to be done. It is to be noted that in the past the appellant's mother made an unsuccessful but fraudulent application for entry clearance. The suggestion is that now she and members of the appellant's family are in the United Kingdom. It would be an assistance if that matter could be clarified. It was hinted at by the First-tier Tribunal Judge that that might have provided the motive why the appellant had come to the United Kingdom. Such it seems to me is a relevant consideration in the overall analysis of the matter.

Notice of Decision

19. The appellant's appeal before the Upper Tribunal is allowed to the extent that the decision of the First-tier Tribunal is set aside to be remade by the First-tier Tribunal.

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 her or any member of her 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 30 July 2018

A handwritten signature in black ink, appearing to read "P. L. King", enclosed in a thin black rectangular box.

Upper Tribunal Judge King TD