



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/08960/2017

THE IMMIGRATION ACTS

Heard at Glasgow
On 22 January 2018

Decision & Reasons Promulgated
On 24 January 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

Y R L

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Katani & Co, Solicitors
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of China, born on [] 1991. He made a protection claim in the UK in September 2008 but did not attend for interview and was listed as an absconder. He was encountered by immigration officials in August 2014 but after release did not comply with reporting conditions. He advanced a claim on asylum and human rights grounds by letter from his solicitors dated 27 January 2015.
2. The respondent refused that claim for reasons explained in her letter dated 30 August 2017.
3. First-tier Tribunal Judge Farrelly dismissed the appellant's appeal for reasons explained in his decision promulgated on 24 October 2017.

4. The appellant's 3 grounds of appeal to the UT are stated in his application for permission filed on 8 November 2017.
5. Ground 1 arises from ¶7 of the decision, which says that after being detained in 2014 the appellant absconded. It is pointed out that at ¶52-55 of his statement the appellant said he was given no further date on which to report. The error alleged is failure to consider that evidence. Mr Winter submitted this was material, in context of the rest of the decision, and that it tied in with ground 3.
6. Ground 3 arises from the conclusions stated by the judge at ¶22, where he says that with the passage of time there is nothing to indicate that the Chinese authorities would be pursuing the appellant. This is said to overlook the appellant's evidence in his statement and orally that his friend had sight of an arrest warrant. Mr Winter submitted that release from detention in China did not necessarily mean the end of any interest, and that re-detention was not unusual.
7. Ground 2 is that as the judge accepted that individuals might be at risk from snakeheads in China, and that loan-sharks are violent and ruthless, he should have allowed the appeal. Mr Winter had nothing to add to this ground.
8. Mrs O'Brien submitted that ground 1 should be looked at in the context that the appellant by his own admission previously absconded for 6 - 7 years, and so further non-compliance was part of a pattern, even if he eventually drew himself back to attention by making an application. The passage criticised was only a narration of the facts. A judge did not have to make a separate finding on every allegation made in evidence. The appellant had been found generally not credible, for succinct but adequate reasons. The conclusion of no ongoing interest was based on country guidance and was on an *esto* basis: "even were his claims true ...". As there was nothing wrong with the general findings, ground 3 was immaterial.
9. Mr Winter in reply said that in his statement the appellant was candid about his earlier absconding, and that even without ground 1, ground 3 would be material, as an indication of ongoing interest from the Chinese authorities. It was accepted that specific findings on every point were not required, but the omissions in this case were material.
10. I reserved my decision.
11. Ground 1 attempts to make much of very little. The appellant was aware he had no lawful status to remain in the UK. He did fail to report from 2014 until he chose to make further representations. The decision at ¶7 is a narration. The conclusion at ¶22 is based on "failure to pursue matters at the time", which is irrefutable, as the appropriate time was from arrival onwards. It is to be presumed that the appellant would be notified of his reporting date. At best, he might have obtained a finding that in absence of an interpreter there was scope for misunderstanding. This is immaterial.

12. Ground 3 criticises a finding made in the alternative. The written statement at ¶62, “I was aware from my friend that they had issued a warrant for me and would arrest me if I returned”, is only a vague passing assertion, which did not call for separate resolution.
13. Ground 2 in essence says that the judge should have reversed country guidance that internal relocation is available from snakehead risk. The judge found no such risk. Even if he had, there was no argument or evidence which might have led him to revisit country guidance.
14. The decision is terse, but this was a perfunctory and long delayed claim about which no more needed to be said.
15. The grounds and submissions for the appellant resolve into no more than insistence and disagreement on the facts. They disclose no error on a point of law, such as to call for the decision to be set aside.
16. The decision of the FtT shall stand.
17. The FtT made an anonymity direction. Although there is no apparent need for one, the matter was not mentioned in the UT, so anonymity is preserved herein.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

23 January 2018
Upper Tribunal Judge Macleman