



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

PA/01906/2019

THE IMMIGRATION ACTS

Heard at Glasgow
On 17 October 2019

Decision and Reasons Promulgated
On 23 October 2019

Before

UT JUDGE MACLEMAN

Between

WALID BELAL
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A Caskie, Advocate, instructed by Katani & Co,
Solicitors

For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Algeria, born on 20 August 1982. He says that he arrived clandestinely in the UK in 2014. He sought asylum on 7 August 2018, claiming to be at risk because he and his wife (also Algerian) married in the UK on 24 March 2015 without the consent of her family.
2. The respondent refused the claim by letter dated 10 February 2019, giving these reasons:- no Refugee Convention category; nationality and

relationship with wife accepted; facts of claim not substantiated; delay, and failure to claim in other countries, also against credibility; in any event, sufficiency of protection and internal relocation both available; no other basis on which to grant leave.

3. The appellant appealed to the FtT, on generic grounds.
4. FtT Judges Cowx and Buchanan dismissed the appellant's appeal by a decision promulgated on 18 June 2019.
5. The appellant sought permission to appeal to the UT. Mr Caskie began his submissions by referring to the terms of the refusal of permission on 26 July 2019 by FtT Judge Welsh:

"The grounds assert error ... in relation to whether:

 - (1) the appellant is a member of a particular social group;
 - (2) the appellant's account is credible;
 - (3) whether there is sufficiency of protection in Algeria;

... the alleged flaws are only capable of being material if the appellant's account is credible.

... there is no merit in the second ground. The judges' reasons ... are evidence-based and logical ..."
6. The appellant sought permission from the UT on similar grounds, set out in the attachment to his application dated 15 August 2019, paragraphs 1 - 16.
7. UT Judge Sheridan granted permission on 21 August 2019.
8. Mr Caskie submitted firstly on the credibility grounds at 4 a - c and 5 - 13, accepting that these were crucial.
9. Paragraph 4 a aims at paragraph 9.19 of the decision, where the panel said that no evidence such as an airline ticket or booking was adduced to establish that the appellant's wife arrived in the UK on 24 March 2015. The ground says that the onus in establishing the date was on the SSHD, and the panel should have had regard to "the failure of the SSHD to adduce evidence".
10. Mr Govan pointed out that the SSHD did not raise the issue in the refusal letter and that the appellant had never asked the SSHD for assistance in establishing the date.
11. No contentious issue had been put to the panel by which it might have perceived a shifting onus. All the panel said was that the date of arrival was "not a determining factor" but "part of the factual matrix". That involved no error of overlooking that the onus might have shifted to the respondent.

12. Paragraph 4 b of the grounds says that the FtT should have taken the short time between the arrival of the appellant's wife and conception of their child as indicative of a prior relationship, or should have given reasons to the contrary. However, there was no dispute over there having been in a relationship. The issue was whether the evidence established that the wife's family was against it. This ground is misconceived, and leads nowhere.
13. Paragraphs 4 c and 5 of the grounds run together, challenging paragraphs 9.8 and 9.9 of the decision. Their first point might have been better put to the effect that the difference between the appellant and his wife over the length of their initial relationship (either from early 2009 to mid-2009, as he said, or for almost a year, as she said) was of little account. Both were rather general descriptions of the period involved. The grounds try to dig deep in looking to cultural norms or the age of the appellant's wife to explain the discrepancy, such as it was. On the second point, as the appellant and his wife said they kept regularly in touch, it was obviously within reason to consider that she would know at least roughly when he had been in which countries.
14. It might be thought that although there was an inconsistency on the first point, it was not very significant; on the second point, the panel's finding, "cause to doubt the veracity of the detail", is restrained, and goes no further than is justified.
15. Paragraph 6 of the grounds, challenging 9.10 of the decision, is not arguably more than insistence on an alternative view of the facts. It was well within reason for the panel to consider that if the appellant's family were so irate at the relationship that the appellant had to flee from Algeria, even when she was 5 years older they were not reasonably likely to agree to her travelling alone to visit the appellant's brother in London.
16. Paragraph 7 of the grounds, 9.10 of the decision: it was far short of perversity to consider it illogical to plot reunion in the UK when the appellant had not yet succeeded in unlawful entry.
17. Paragraphs 8 - 10 of the grounds, 9.12 - 9.14 of the decision: no further reasons were required for finding it implausible that the appellant's brother would not ask why he left Algeria and what he had been doing, or discuss the risk involved.
18. Paragraph 11 is convoluted, and makes no clear point. Mr Caskie had nothing to add to it. It is accepted that the panel had good reasons to doubt the documentation offered to vouch a formal marriage. The panel did not question the relationship. The dubious nature of the documentation rationally detracted from the claim.

19. As to paragraph 12, it is hard to see why the appellant's brother might not have accepted the relationship. The panel's view that his acceptance would be "wholly inconsistent" does seem to go rather far.
20. Paragraph 13 says there was no evidence to support the observation at 9.26 that there was nothing to prevent the appellant and his wife seeking reconciliation; but the point was obviously open on the evidence the appellant supplied, and nothing further was needed.
21. Overall, Mr Caskie argued that the panel looked only for reasons to dismiss the appeal (paragraph 16 of the grounds), left out of account considerations on the other side, and failed to provide an adequately reasoned decision. Mr Govan countered that while a few imperfections might be found, the decision, read as a whole, thoroughly explained why the account had not been found reliable.
22. For the reasons given above, I have not found the individual grounds to disclose any significant error on a point of fact. Their high points are on the import of the discrepancy over the period of the initial relationship, and the possibility of acceptance by the appellant's brother. By probing into points of detail, plausible disagreements can no doubt be found with any extended resolution of the facts of a case. The decision is a detailed and thorough analysis. It does not overlook the alternative interpretation, but explains why it is not found reliable even to the lower standard.
23. I do not find that the appellant's disagreements with certain of the credibility findings add up to error on a point of law in the overall conclusion.
24. Mr Caskie said that the finding of sufficiency of protection was inadequately supported, because it founded only on the policy section of the respondent's note, not on the evidence section. That may be an astute observation in principle, but paragraph 14 of the grounds discloses no eventual error. As Mr Govan pointed out, the appellant's submission in the FtT on sufficiency of protection was one generalised sentence, and he tendered no evidence. It was he who put in the respondent's note. Having chosen to rely on that as all his evidence on sufficiency of protection, and having offered no contrary analysis, it is far-fetched now to complain that the panel went wrong. He has not referred to anything before the panel which might realistically have led to another answer. Any error was theoretical.
25. As to paragraph 15 of the grounds, if the account was credible, it did not automatically follow from there being a computerised identity card scheme, and significant corruption, that the family of the appellant's wife either could or would trace them in Algeria.
26. The case accordingly failed, even if the appellant had been found credible, on sufficiency of protection and on internal relocation.

27. The grounds at paragraphs 2 and 3, on particular social group, are the best taken. I find the panel's analysis hard to follow. The appellant is part of the same extended family as his alleged persecutors, but it is not clear why that would exclude a legal category of protection. That was not the reasoning on which the respondent relied at pages 4-5 of the refusal letter. Mr Govan did not adopt the analysis in the decision, but said that the point was immaterial. However, success on this ground is an abstract legal matter which does not affect the outcome.
28. The decision of the FtT stands.
29. No anonymity direction has been requested or made.

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

18 October 2019
UT Judge Macleman