



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

Appeal: PA/02696/2019

THE IMMIGRATION ACTS

Heard at Glasgow
On 1 August 2019

Decision and Reasons Promulgated
On 13 August 2019

Before

UT JUDGE MACLEMAN

Between

NADIA [N]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S F Winter, Advocate, instructed by Latta & Co,
Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Tanzania, born on 7 July 1986. She sought asylum in the UK on 12 October 2018.
2. The respondent refused her claim for reasons set out in a letter dated 11 March 2019.
3. The appellant appealed to the FtT. Judge Doyle dismissed her appeal by a decision promulgated on 8 May 2019.

4. The appellant's grounds of appeal to the UT, (i) - (iii), are set out in her application for permission dated 10 May 2019. The FtT granted permission on 6 June 2019.
5. The respondent filed a rule 24 response to the grounds, dated 26 June 2019.
6. Ground (i) is directed firstly against [12 d] of the decision, which notes that at screening interview the appellant did not mention fear of her cousin or any sexual predator. The judge is said to have failed to consider whether letters from a GP and from Wellbeing Scotland about mental health issues explain the omission. The ground is directed secondly against [12 l -o], where the judge refers to inconsistencies in the appellant's account of her activities for the CUF. The ground says that the judge failed to consider that both passages of evidence might be accurate, and that those suffering from mental health concerns might mix up information under pressure.
7. Further to this ground, Mr Winter submitted that throughout his findings the judge took no account of mental health issues, and that the omission impacted also on ground (ii), going to obstacles to relocation, and possibly on article 8 issues.
8. Ground (ii) is that [12 j] is not enough of an explanation to show relocation to be reasonable; is speculative; and does not consider the appellant's vulnerability and having nowhere to go, other than back to the aunt whom she fears.
9. Mr Winter accepted that ground (ii) depends on the appellant making out her claim about risk from her family. He said that if the judge's adverse credibility findings were displaced, this was not a claim necessarily defeated by sufficiency of protection or by internal relocation.
10. Ground (iii) is that [12 f], stating that background evidence was that rape was a crime taken seriously in Tanzania, was a contradiction of that evidence, which showed there to be no enforcement.
11. Mr Winter referred to background evidence in the appellant's FtT bundle, and in the respondent's FtT bundle at Q and Z, to show lack of practical state protection for female victims of rape and violence, and difficulty of relocating. He said the evidence painted a very poor picture. There was no real will to prevent abuse. The evidence supported grounds (ii) and (iii).
12. Finally, Mr Winter submitted that the case should be remitted to the FtT.
13. The most specific point made in the rule 24 response is that the only evidence about the appellant's mental health was a GP's letter stating that she was treated with medication for epilepsy and depression, with no information about how that impacted on her, and that further consideration could not have made any material difference.

14. Mr Govan relied on that response, and referred to the GP's letter at pp 19 -20 of the appellant's FtT bundle. He said there was nothing in it about the impact of her condition on her memory or on her coherence as a witness. She had not produced a psychological or psychiatric report. In her statement she did not say she had difficulty in giving evidence, and she made detailed responses to the refusal letter, and at the hearing.
15. (It was observed at this stage that the appellant does say in the last sentence of her statement, "I want to clarify that due to my mental health problems I was not thinking properly and could not make decisions myself. I had many people telling me not to go to the UK and not to stay in Germany. I am suffering from depression, stress and anxiety ... and epilepsy." The response is made to paragraph 41 of the refusal letter, based on the appellant not having claimed in Germany. However, it is capable of being read more widely.)
16. Mr Govan submitted further as follows. The FtT at [12 q] held that the claim failed even "at highest", to which the grounds made no challenge. On internal relocation, the passage quoted and challenged in the grounds itself showed that the judge took account of the appellant's level of education and her history. She had shown that she could resist the aunt who was said to be a threat. She had no reason not to take help, if she wanted or needed it, from her sisters and from her other aunt. The internal relocation finding was only in the alternative. It was for the appellant to show that she was vulnerable. There was little to support that. Her actions showed that she could get by. Rather than vulnerability being a major part of the case, it had not been made much of in the FtT, and was an afterthought. Ground (iii) on its own did not lead anywhere.
17. Mr Winter responded thus. There had been evidence and submissions to raise the issues covered in ground (i). The letters from the GP and from Wellbeing Scotland were not expert reports, but they merited consideration, and might have been found to explain the perceived weaknesses in the appellant's account. It was a misapprehension that the claim failed even "at highest". If given full credit, it was not bound to fail. If the appellant had not made much of her mental issues, that might be because the person affected was not always fully aware of their condition. As a person with limited education and work experience, and mental health issues, relocation might well be unreasonable. There were very limited resources to treat the appellant in Tanzania, as shown by the information at AA of the respondent's FtT bundle. The respondent founded on the appellant's ability to get by in other European countries, but that was not the same as getting by in Tanzania.
18. I reserved my decision.
19. The appellant's representatives have made the most of her case, in the FtT and again in the UT, but even at highest it was a weak one.

20. The finding at [12 q] of no risk arising from participation in CUF is the only one which could sensibly have been reached.
21. The appellant said she was at risk of enforced marriage from her aunt, but she had resisted that pressure in the past, and could do so again.
22. Even if she needed to avoid risks of enforced marriage from her aunt and sexual assault by her cousin, those were localised and avoidable problems. They did not require her to avoid contact with other family members, such as the other aunt she mentioned, and her sisters.
23. There was evidence that the appellant has mental health problems, which might go towards explaining why she did not make the best possible presentation as a witness. I also accept that a person may not be aware of their own frailties, although that does not sit well with the final paragraph of her statement. However, Mr Govan made a fair point that any frailty was more of an afterthought than a main theme in the FtT; it is difficult to see that it might have resulted in her account being given any more credit than it was; and even if it had been, the case remained weak.
24. The FtT's alternative conclusion on internal relocation is the only outcome which might realistically have been expected on that issue.
25. Ground (iii) is the best taken. The crime may be taken seriously in law, but there was evidence that is not reflected in practice. The high level at which penalties are set does not count for much, if there is little enforcement. Mr Winter was able to show that the finding of a police force with "a will to prevent sexual crimes" (a very high level of protection) goes beyond the evidence. However, ground (iii), on its own, leads nowhere.
26. The appellant has not shown that the making of the decision of the FtT involved the making of any error on a point of law, such that it ought to be set aside. That decision shall stand.
27. No anonymity direction has been requested or made.



6 August 2019
UT Judge Macleman