



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/06468/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 19 December 2019

Decision & Reasons Promulgated  
On 9 March 2020

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

GS  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms F Allen, Counsel, instructed by the Tamil Welfare Association

For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. Breach of this order can be punished as a contempt of court. I make this order because the appellant is an asylum seeker and so is entitled to privacy.
2. This is an appeal against a decision of the First-tier Tribunal to dismiss the appeal of the appellant against a decision of the respondent on 14 June 2017 refusing him asylum and/or leave to remain on human rights grounds.
3. The appellant is a citizen of Sri Lanka. He says that he risks persecution because of things he did in support of the LTTE.

4. Permission to appeal was refused by the First-tier Tribunal. It was granted by Upper Tribunal Judge Grubb who has already commented adversely on the inconvenience of having grounds prepared both by Counsel and, in a separate document, by the appellant's instructing solicitors. I do not know how this came about. It is not helpful. Judge Grubb gave permission on a limited basis and, given the potential for confusion generated by the two sets of grounds, I must take particular care in identifying the points that were arguable before me.
5. Judge Grubb's order showed that permission was granted on Counsel's grounds and ground 1 of the additional grounds but he described that as "repetitious of Counsel's grounds" and I find it adds nothing relevant.
6. I look now at the grounds drawn by Ms Allen.
7. It is an element of the appellant's case that he is at risk in Sri Lanka because the Authorities have shown an interest in him by visiting the family home and by issuing a summons against him requiring him to appear in the criminal courts. This is potentially very important and the First-tier Tribunal Judge noted at paragraph 30 where he was considering the respondent's case that:

"it was accepted that if the appellant were to be the subject of an arrest warrant for the reasons he stated that such had been issued, he would be at risk."
8. The judge has explained at paragraph 27 of the Decision and Reason that evidence relating to the summons to face terrorism charges had been provided with a letter by a Mr R M Imam. It is in Appeal Bundle 5 at pages 6 to 15 and Bundle 6 at pages 7 to 9. At page 10 there is a letter bearing a signature and a rubberstamp and a letter heading showing that the letter comes from R. M. Imam "Attorney-At-Law and Notary Public Former Member of Parliament". It is dated 5 June 2019. There is nothing in the appearance of the letter that makes its authenticity particularly persuasive or dubious. There is then a copy of an e-mail from a Mr K Fred who is a solicitor with the Tamil Welfare Association to Mr Imam posing two questions. The text is dated 6 June 2019. It says:

"It would be helpful if you would provide answers to the following questions

(i) would you please explain why your name does not, at present, appear on the Bar Association of Sri Lanka (BASL) directory of lawyers?

(ii) would you please provide a copy of your BASL photo-membership card (if you hold one)? We are aware that Sri Lankan attorneys registered with the BASL hold BASL photo membership cards with a BASL number".

Please note that we will not be able to rely on this letter unless it is supported by documentary evidence of the kind requested above"
9. There is a response dated 6 June 2019. It seems to have been sent very quickly. There the writer confirms that he is a lifetime member of the Bar Association of Sri Lanka and gives a membership number and says: "if you have any further queries about my membership you can verify from the Bar Association of Sri Lanka". He then indicates that he lost his membership card and had not applied for a replacement. However he did provide what he certified was a true copy of a certificate dated 18 September 1978 identifying the appellant as someone admitted and enrolled as an attorney at law in the Supreme Court of the Republic of Sri Lanka. There was with it a certificate purporting to

be from the registrar of the Supreme Court of the Democratic Socialist Republic of Sri Lanka showing that a person with the same name and address as Mr Imam and using the same identification number was admitted as an attorney at law on 18 September 1978 “and that his name continues to appear on the re Roll of Attorneys at Law”. That is dated 24 July 2018.

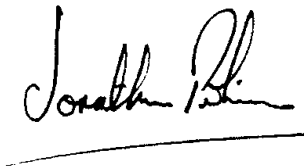
10. The documents in bundle 6 have been considered above, particularly the letter of 5 June 2019 which does indeed purport to show the offices and residential address of the alleged lawyer Mr Imam.
11. I find it extraordinarily vexing that neither party has done more to illuminate the status of the writer Mr Imam. He had equivocally invited anyone having doubt to contact the Bar Association of Sri Lanka to verify his membership. As far as I can see no one has done that. It would have been open to the appellant’s representatives to have written to the Bar Association of Sri Lanka to ask if Mr Imam was a member of their association. I find it even more extraordinary that the respondent made no such inquiry. Whilst fully appreciating that the Secretary of State in asylum cases has to show considerable sensitivity there was not the slightest reason for the Secretary of State to link any inquiry to a particular appellant or asylum seeker or even to state the reason for the application. Ordinarily members of a profession such as advocate are listed by their professional body and it appears clear that this is not the case here. Certainly Mr Imam did not deny the assertion by the appellant’s representative that his name did not appear on a published list. I appreciate it is for the appellant to prove his case but there is absolutely no reason why the Secretary of State cannot help or indeed help undermine it.
12. The sense of vexation is enhanced by reason of the bundle containing the documents about Mr Imam was served very soon before an intended hearing at Hatton Cross on 7 June 2019 and the hearing was adjourned for documents to be considered. It would have been the work of a few minutes to have contacted the Sri Lanka Bar Association and the outcome of that could have been illuminating but as far as I know it was not done.
13. The First-tier Tribunal Judge had to deal with the evidence relied upon and not the evidence that might have been produce. I agree with Mr Melvin that the judge gave sufficient reasons for doubting the credibility of Mr Imam. He did not address every point that might have been addressed but he did say perfectly clearly at paragraph 38 where he made his finding that he was not satisfied that Mr Imam is a genuine attorney, that he had given no explanation for losing his identity card or more importantly explaining where a new one could be obtained.
14. Still more significantly there was no support from the Bar Association to confirm that Mr Imam was still a member. There was evidence that he had been admitted as an attorney in 1978. The judge should have commented on the further documents showing he was a member in good standing in July 2018 but that was not the material date. It was the appellant’s case that Mr Imam was a member in good standing. The letter dated 24 July 2018 is not helpful. It is hard to understand why a document dated 24 July 2018 was relied upon at a hearing in September 2019 (or the flawed hearing in June 2019) and no explanation has been tendered for the appellant’s name not appearing on the roll of attorneys. As indicated elsewhere, the assertion that it did not appear was not challenged. It would be extraordinary to acquiesce in such an assertion if it was wrong.

15. The First-tier Tribunal Judge has been criticised for being a little skimpy in his consideration of the evidence but it is perfectly obvious that a more detailed consideration would have led to more reasons for disbelieving it. The First-tier Tribunal Judge did consider the explanation provided by Mr Imam in the letter of 5 June 2019. The judge was entitled to note, as he did, that the appellant was living at the same address as his wife at a time when it is said that he had not attended court but it had never been suggested in earlier proceedings that there had been any attempt to summons him to court even though his wife might well have been expected to have known about such things. This is not a compelling point but it points in the direction of the appellant's case being unreliable.
16. Further it is extraordinary that the allegedly supporting evidence was not raised in earlier proceedings.
17. I am dissatisfied with the First-tier Tribunal's decision because the status of Mr Imam is at least potentially a point of considerable importance and neither party has distinguished itself in addressing it but I am satisfied that the judge reached a proper decision on the evidence that was available to him.
18. It is of course open to the appellant to make a further application if he can get better evidence to support his case. It may be that independently obtained evidence from the Sri Lankan Bar Association about the status of Mr Imam from either party could be very illuminating but that is speculation. If the appellant's case is sound it is something he might want to consider.
19. Ms Allen argued in her grounds and indeed before me that the judge had applied too high a standard of proof. That kind of allegation is always easy to make and is sometimes well-founded but I do not agree that it well-founded here. The judge has given proper reasons for his conclusion.
20. It is also right to emphasise that there were other grounds. I am concerned about the judge's finding that the appellant had not worked for the Halo Trust because that appears to be supported by current credible documents but the grounds make no inroad in the judge's finding that the appellant would not be at risk because of anything now because of anything that happened then once the "summons" point fails.
21. It was the appellant's case that he had spent three years after being attacked in 2012 before coming to the United Kingdom. There is no basis for concluding that he would be at risk now because of enemies made during his time with the Halo Trust or, if there were problems, that effective protection would not be available.
22. The judge did consider the medical evidence. The judge did not doubt it but found that it did not support his claim or add to his credibility. The appellant is poorly now but not to the degree that would prevent his re-establishing himself in Sri Lanka. There is no material error in those findings.
23. Putting everything together I am satisfied the judge reached a conclusion that was open to him. With the benefit of hindsight the judge can be criticised for not saying more about the evidence before him but I doubt if the perfect Decision and Reasons has ever been written. He was not helped by the absence of potentially crucial information from either party and he did not err in law.
24. I dismiss the appeal.

**Notice of Decision**

25. The appeal is dismissed.

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

A handwritten signature in black ink, appearing to read "Jonathan Perkins", written over a horizontal line.

Dated 4 March 2020