



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12167/2018 (P)

**THE IMMIGRATION ACTS**

Decision under Rule 34  
Without a hearing  
On 9<sup>th</sup> June 2020

Decision & Reasons Promulgated  
On 22<sup>nd</sup> June 2020

Before

UPPER TRIBUNAL JUDGE COKER

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

GJO

(anonymity order made)

Respondent

**DETERMINATION AND REASONS (P)**

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the respondent in this determination identified as GJO. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings

1. FtT Judge Colvin allowed GJO's appeal against the refusal of his protection and human rights claim for reasons set out in a decision promulgated on 11<sup>th</sup> November 2019. Permission to appeal was granted by FtT judge Appleyard on 28<sup>th</sup> February 2020. Directions for the further conduct of the appeal were sent on 29<sup>th</sup> April 2020 and, in the circumstances surrounding COVID 19, provision

was made for the question of whether there was an error of law and if so whether the decision of the FtT Judge should be set aside to be determined on the papers.

2. Neither party had complied with directions by the date of this decision. Neither party had objected to a decision on the error of law issue being taken on the papers. There was no Rule 24 response from the respondent.
3. In the absence of any submissions from either party I am nevertheless satisfied that the grounds of appeal relied upon by the SSHD together with the papers before me that were before the FtT judge are sufficient to enable me to take a decision on whether there is an error of law in the decision of the FtT and if so whether the decision should be set aside, on the papers and without hearing oral submissions.

### Background

4. GJO, a Jamaican citizen born in 1994, arrived in the UK in May 2007 aged 12 with indefinite leave to enter following a successful appeal against a refusal of entry clearance. "No time limit" was endorsed on his passport in December 2013. On 27<sup>th</sup> July 2017, aged 22 he was convicted of fraud, perverting the course of justice and money laundering, such offences relating to having defrauded his father of £1.2million. He was sentenced to a total of 5 years imprisonment. His claim to remain in the UK was based upon threats he (and his mother and relatives) had received from his father (who has relocated to Jamaica) and others in the community because of the fraud he committed.

### FtT decision

5. The FtT Judge summarised GJO's claim and the respondent's reasons for refusal. She set out the evidence of the various witnesses and summarised the submissions made. She set out the law. Her findings were:
  - (i) GJO's account of his father making death threats against him are credible; that the threats are "very real and have been made in full sincerity" [43].
  - (ii) The father has made no direct threats to GJO since 2014 although it is reasonable to assume that he knows (or would be able to find out) that he had been living with his maternal uncle prior to imprisonment and since his release.
  - (iii) There has been no reconciliation between the father and GJO.
  - (iv) "I am unable to say on the lower standard of proof that there is no reasonable likelihood that the appellant will not be at real risk from threats to kill him from his father in Jamaica" [46].
  - (v) GJO is "reasonably likely to be at risk of not being sufficiently protected by the Jamaican authorities and at the same time it would not be reasonable to expect him to internally relocate in order to avoid detection by his father" [50].

- (vi) The circumstances of his relationship with his girlfriend and the consequences of his deportation do not meet the high test of “unduly harsh”.
- (vii) GJO has been in the UK most of his life, he remains socially and culturally integrated in the UK; he meets the high threshold of very significant obstacles in terms of the real risk from death threat and, if wrong, the adverse impact of his personal characteristics on his ability to participate and be accepted. He is at “real risk of death threats and “clearly meets the provision of ‘very significant obstacles.

6. The FtT judge dismissed the appeal on asylum grounds, allowed the appeal on humanitarian and human rights grounds.

Error of law

7. The SSHD sought and was granted permission on the grounds it was arguable the judge had failed to provide adequate reasons for finding GJO had been subjected to threats against his life by his father; failed to provide adequate reasons/gave weight to immaterial matters when finding GJO would currently be at risk from his father; made a material misdirection in law/failure to provide adequate reasons on a material matter on internal relocation; made a material misdirection on a material matter in finding the relationship with the maternal uncle was sufficient to engage the high threshold of very compelling circumstances – rehabilitation is a neutral point.

*Threats from GJO’s father and internal relocation.*

8. The SSHD submits the judge wrongly concludes that there were no reasons advanced that undermined GJO’s credibility. The SSHD draws attention to the offences that he was convicted are offences of deception which undermine his credibility; that she incorrectly placed great reliance on the maternal uncle’s evidence yet he had a vested interest in the outcome of the appeal and that the failure of GJO to notify the UK authorities of the threats undermined his credibility. She submits that the likelihood of the threats materialising should have been seen in the context of GJO’s last contact with his father and that the uncle’s assessment of risk was incapable of being afforded the weight given to it. GJO’s father has, it was submitted received the majority of the money that was taken from him by GJO, there are still assets to be sold and that is clearly relevant given the absence of recent threats. GJO’s evidence was deficient it was submitted, and the FtT judge failed to approach the evidence with the necessary realism and attention to fact.
9. The FtT judge does not, contrary to the submission by the SSHD, find that the SSHD failed to advance reasons to counter GJO’s evidence; she finds that the reasons given by the SSHD “are not substantive in order to counter the appellant’s evidence and has not pointed to any other matters which in my view undermine the appellant’s credibility on this point of threats” [43]. The judge heard live oral evidence; she set that against the other evidence before her and reached the conclusion that GJOs father had made threats against him. The judge noted that the threats had been notified to the police by one of the

witnesses, but no action was taken. The judge's assessment of the uncle's evidence was an assessment that was open to her. The submission that the uncle had a vested interest in the outcome of the appeal is an interest that is taken by most witnesses in nearly all appeals – otherwise they would not be called as witnesses. To imply that an experienced judge such as this judge was not able to or failed to factor into her assessment the purpose that witnesses give evidence is surprising. There is no indication in the decision that the judge failed to make a proper and full assessment of the uncle's evidence in the context of the appeal before her.

10. The judge clearly understood that it was not simply a question of whether the threats had occurred in the past but whether they were likely to occur in the future such that GJO would be at real risk. The judge was clearly aware of the difficulties of reaching a decision and considered the whole of the evidence holistically in making her decision. Her findings were open to her on the evidence; she has not omitted consideration of evidence and plainly acknowledges the difficulty in making the decision in the context of the weighty public interest in deportation.
11. In reaching her decision on sufficiency of protection and internal relocation, the judge took full account of the evidence before her. She refers to the background evidence and cites this with provisos with regard to the threats coming from an individual family member. Her conclusions are not speculative but informed by the evidence before her which she carefully considered and analysed. Again, she acknowledges the difficulty of the decision she has to make, but reaches a decision that is supported by her reasoning.

*Very compelling circumstances*

12. As observed by the judge, given her findings as to humanitarian protection there was no necessity to consider Article 8. Nevertheless, she makes a full analysis both of GJO's relationships and his personal private life impacted upon by the findings regarding death threats. The relationship with his uncle and rehabilitation are merely factors that she takes into account and do not form the basis on which she finds there are very compelling circumstances.

**Conclusion**

13. The decision reached by this judge in this case is perhaps a decision that may not have been reached by another judge. It cannot be said however that her findings were defective, unreasoned, lacked detail or unjustified. She set out the evidence and applied the law properly. Her decision is structured and reached after very careful consideration and analysis. The submissions by the SSHD in the grounds seeking permission to appeal are disagreements with the judge's findings; findings she was entitled to come to even if not all would agree with them. There is no error of law in the FtT Judge's decision.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision; the decision of the FtT judge allowing the appeal stands.

Anonymity

The First-tier Tribunal made an order pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

*Jane Coker*

Upper Tribunal Judge Coker

Date 9<sup>th</sup> June 2020