



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2022-006509

First-tier Tribunal No:
PA/55279/2021 (LP/00271/2022)

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 5 September 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

SM
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Johnrose, Legal Representative

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 3 August 2023

DECISION AND REASONS

1. The Appellant is a national of Iraq, date of birth 1 May 1998, who on 5 November 2018 applied for asylum. The Respondent refused his application in a decision dated 13 October 2021 because the Respondent did not accept the Appellant's claim that he was a potential victim of an honour crime and found that there was sufficiency of protection and internal relocation available to him.

2. The case was listed before Judge of the First-tier Tribunal Thorne (hereinafter referred to as the FTTJ) on 25 July 2022 who subsequently dismissed the Appellant's appeal under the Refugee Convention on 27 July 2022.
3. The Appellant sought permission to appeal arguing the FTTJ had erred by failing to consider material evidence namely the Appellant's oral and written evidence and a failure to give any or adequate reasons for his core findings. Permission to appeal was granted by Judge of the First-tier Tribunal Robinson on 21 September 2022 who found it arguable the FTTJ had not given adequate reasons.
4. Ms Johnrose submitted the FTTJ had materially erred by failing to consider material evidence or give adequate reasons for his core findings. Mrs Johnrose relied on the grounds of appeal and in particular submitted as follows:
 - a. The FTTJ had accepted evidence of cultural norms and used this to support his finding they were able to keep their affair a secret. However, the FTTJ did not adequately consider the oral evidence. In his oral evidence the Appellant had explained how he kept the relationship secret and he had stopped visiting her home address after there had been a falling out over land. The FTTJ had erroneously found that the Appellant continued to visit.
 - b. Mrs Johnrose referred to her skeleton argument paragraphs 13.1 and 13.2 (page 12) as well as Q126 to 130 and Q117 and 144 of the interview. At paragraph [25] the FTTJ stated the Appellant had given vague evidence but Mrs Johnrose invited me to look at his answers which were anything but vague.
 - c. The FTTJ wrongly applied section 8 of the 2014 Act.
 - d. The FTTJ wrongly concluded the arrests were both unreliable and not genuine which was not what the Respondent had said in her refusal letter. By doing so the FTTJ overlooked the fact that the Respondent had to show the documents were not genuine.
5. No Rule 24 response had been filed but Mr Diwnycz submitted people can keep matters a secret until they are discovered and he submitted that it was not reasonably likely he would be at risk given the relationship had foundered. The Appellant had his documents and could therefore return to live in a different part of Iraq.
6. Mr Diwnycz submitted the arrest warrant was of limited value as it contained limited information. The Respondent always stated the document was unreliable and the finding by the FTTJ that the document was not genuine did not alter the fact the document was unreliable.

7. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (512008 /269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

DISCUSSION AND FINDINGS

8. This appeal is based on the Appellant's grounds of appeal that the FTTJ failed to make appropriate findings and/or give adequate reasons for his findings. The application was opposed by Mr Diwnycz. For the reasons hereinafter provided I found there was no error in law.
9. The Appellant's has claimed he was at risk of an honour killing because of his illicit relationship. The FTTJ rejected this core aspect of the claim and central to the appeal presented to the FTTJ was whether this aspect of his claim was credible. The FTTJ rejected the claim for four reasons namely (a) culturally it was not credible the relationship would have continued for so long; (b) S's father exerted a large degree of control over S; (c) when questioned about the relationship in interview his answers were vague and (d) the Appellant continued to visit S's home in 2017 when their families fell out over a land dispute. Mrs Johnrose submitted these findings were flawed.
10. Whilst the FTTJ's findings about the relationship were limited I am satisfied the FTTJ made findings about the relationship which was clearly an interpretation of the evidence that was open to him. The Appellant had claimed S's father exerted considerable control over S and was a person of great power and influence and the FTTJ noted the Appellant had been given warnings by his brother. These were the primary reasons the FTTJ rejected his claim that he had managed to keep their relationship secret for three years.
11. The issue I have to decide is whether that finding is undermined by Mrs Johnrose's subsequent points namely the FTTJ erred by his finding about the Appellant visited S's home address after 2017 and his finding the arrest warrant was not genuine.
12. The Respondent never accepted the reliability of the arrest warrant and the grounds of appeal did not appear to take issue with this aspect of the FTTJ's finding. Mrs Johnrose's submission was the FTTJ erred when he found the document was not genuine in paragraph [29] of his decision.
13. The FTTJ stated he did not believe the "nonsense" in the document was the type of information that would be found on a genuine document. He rejected the arrest warrant applying the principles of Tanveer Ahmed and having considered the evidence he concluded the document was neither reliable nor genuine.

14. The Respondent did not go as far to say the document was not genuine but the FTTJ's role was to make findings of fact. Given the Respondent did not accept the reliability of the document it was open to the FTTJ to not only adopt that conclusion, but having heard the evidence he was entitled, if he felt the evidence demonstrated this, to make a finding about whether the arrest warrant was genuine or not genuine.
15. The FTTJ clearly did not accept the reliability of the document and he gave reasons for this and then gave his reasons why he felt the document was not genuine. The FTTJ fully explained his reasoning and I am satisfied that reasoning and finding was one that was open to him. Contrary to Mrs Johnrose's submission, this was not a case where the FTTJ went against the Respondent's view about the document. The FTTJ accepted that submission but then having considered the totality of the evidence he concluded the document was not genuine. There was nothing perverse in that finding and I accordingly find there was no material error on this issue.
16. It was further argued the FTTJ's finding in paragraph [26] of his decision was erroneous and that this undermined his overall finding about the relationship. The FTTJ made numerous findings about the relationship and noted that the Appellant claimed the Appellant's and S's family had fallen out and had stopped speaking to each other in 2017 and therefore it was not credible the Appellant would continue to visit S's home.
17. At paragraph [11] of the Appellant's witness statement the Appellant stated, "...S's dad stopped coming to see us and did not allow us to visit each other's homes. However, S and I managed to continue to meet each other secretly and clandestinely on the way to school, during shopping and going around his home at certain informed times either from a distance or close up but only when S advised me that her mum and dad were not around."
18. Again, the FTTJ heard the evidence and whilst I understand Mrs Johnrose's submission I do not find the FTTJ's finding is at odds with what the Appellant had stated in his statement. The Appellant's evidence was that they continued to see each other, and that the Appellant did visit S's home area when her parents were not around. The FTTJ rejected the Appellant's account altogether and it was open to the FTTJ to find that there were occasions when the Appellant went to the vicinity of S's home area as long as her parents were not around. I do not find the FTTJ's finding on this issue to be such that he materially erred.
19. The FTTJ's core findings about the relationship were not undermined by the issues raised in the grounds of appeal.
20. The FTTJ made an adverse finding under section 8 of the 2004 Act. The Respondent raised this in her decision letter (paragraph [24] and [54] to [56]). Mrs Johnrose argued the FTTJ erred in making a section 8 finding but the FTTJ only made that finding having made core findings on the claim

itself. I am satisfied the FTTJ was entitled to make the adverse finding under section 8 of the 2004 Act.

21. Having considered the grounds of appeal I am not persuaded there was a material error in law.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of errors on points of law.

Deputy Judge of the Upper Tribunal Alis
Immigration and Asylum Chamber
18 August 2023