



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002063
First-tier Tribunal Nos:
HU/55965/2021
LH/00022/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 02 November 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

GAB
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Emezie, Solicitor Advocate instructed by Dylan Conrad
Kreolle Solicitors

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

Heard at Field House on 17 October 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant appeals with permission granted by Upper Tribunal Judge Kamara on 4th July 2023, a decision of the First-tier Tribunal Judge Mulholland, dismissing an appeal brought on international protection and human rights grounds.
2. The Appellant is a Cameroonian citizen whose international protection claim centred on refugee convention risks arising on the basis of political opinion and ECHR Article 3/8 breaches arising from health risks in the context of suicide ideation and PTSD coupled with an inability to access health care on grounds of affordability as well as impact on ability to integrate. The judge dismissed the appeal on all grounds.
3. The grounds which caused concern in the consideration and grant of permission to appeal were those dealing with the assessment of the impact of the Appellant's mental health.
4. Following lengthy submissions based on prolix and at times incoherent grounds the nub of the appeal before me remained the judge's treatment of the evidence concerning the Appellant's mental health. The judge accepts that the Appellant has a diagnosis of post-traumatic stress disorder. In a lengthy and detailed decision in which the judge made findings variously for and against the Appellant, the judge brings the threads of the findings together at paragraph 98 to conclude as follows:

"I am not satisfied that the Appellant was arrested and detained for five days in 2016, that she was raped on 10 June 2019, that her brother was killed on 20 November 2019, that her father was killed on 14 February 2020 or that her mother and sister are missing. I have taken into account the Appellant's mental health state and having done so, I cannot be satisfied that the inconsistencies could be justified because of her mental health, particularly as she stated at the screening interview that she did not suffer from any physical or mental ill health. I attach little weight upon the medico-legal report because the conclusions on risk on return are based on the Appellant's account which I have not accepted. I find that the letter from the Appellant's cousin is self-serving and that the documents presented are unreliable".

5. Mr Melvin relied on the Respondent's response of 27th July 2023 to the point that the judge's consideration of the expert evidence of the psychiatrist followed correct self-direction and amounted to questions of weight which were properly within the judge's compass.
6. I am satisfied that the judge's approach does reveal a material error of law.
7. The judge treats the Appellant as a vulnerable witness at paragraph 9 and references the Joint Presidential Guidance Note, and recent case law at paragraph 10, and made appropriate accommodations for the conduct of the hearing as recorded at paragraph 11. The judge correctly explains that the consultant psychiatrist's report carries no weight when the psychiatrist deals with matters outside his expertise concerning the credibility of the Appellant's account. The judge notes discrepancies between the account of events as provided by the Appellant to the consultant psychiatrist when compared to that in her evidence elsewhere. In the context of the findings concerning the plausibility of the

account vis-a-vis the background evidence the judge's dealing in terms of the credibility of the account is insufficiently reasoned in light of the apparent acceptance of the diagnosis of PTSD. There is no consideration of the impact of the diagnosis of PTSD in the context of the difficulties concerning historical recollection and credibility of the account and the absence of any mention of mental health issues during screening. The difficulties with the credibility findings impact the conclusions in respect of Article 3 and Article 8, not least because those findings are predicated on credibility issues as considered in the context of the protection claim but also the judge, having concluded that the Appellant lacked credibility in the context of the risk on return, failed to continue and provide reasoning about the impact of return in the context of the suicide ideation and PTSD diagnosis independently of the issue of risk on return so as to assess whether, nonetheless, as a result of ill health the Appellant met the Article 3 threshold or established a breach of Article 8.

Notice of Decision

8. For the reasons that I have set out above I find that the judge's decision is vitiated by legal error such that I set it aside. I preserve no findings of fact so that the appeal must be considered afresh de novo.
9. In light of the extensive fact-finding required, bearing in mind the Procedure Rules, I remit the matter to the First-tier Tribunal to be heard again by a judge other than Judge Mulholland.

E M Davidge

Judge of the Upper Tribunal
Immigration and Asylum Chamber

27 October 2023