



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-002423

First-tier Tribunal No: PA/53026/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 6 September 2023

**Before**

**UPPER TRIBUNAL JUDGE CANAVAN**

**Between**

**L P**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr N. Garrod, instructed by Evolent Law

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

**Heard at Field House on 15 August 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity because the case involves a protection claim. 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 appealed the respondent's decision dated 26 July 2019 to refuse a protection and human rights claim.
2. First-tier Tribunal Judge Loke ('the judge') dismissed the appeal in a decision sent on 12 June 2023. The judge summarised the factual basis of the appellant's claim [6]. The appellant claimed that his father was a civil servant who was threatened by a local electoral candidate, 'Kole', for refusing to validate bought votes in an election in 2011. In December 2011, four unknown men assaulted the appellant and tried to force him into a car. He was saved by people passing by.

The appellant claimed that the family continued to receive threats. The appellant's father was arrested in 2014 for election manipulation because of charges pressed against him by Kole. His father was initially convicted but it was overturned on appeal. The appellant left Albania in January 2015. He claimed that his family were in hiding in Albania. The judge went on to summarise the respondent's reasons for refusal [7]. She went on to summarise the main aspects of the appellant's evidence during the hearing, including the fact that he had denied, when put to him, that the people who attacked him in 2011 attempted to rape him as stated in the documentary evidence [9].

3. The judge went on to consider the credibility of the appellant's account with reference to the evidence. She bore in mind the appellant's age when the claimed incidents happened and the fact that he was still only 17 years old when he arrived in the UK. She also considered the fact that the appellant had been diagnosed with depression [13]. However, even taking into account those factors, she found that the appellant's account was 'problematic in a number of ways.'. There was a notable lack of detail about the problems that his father had with Kole. While appreciating that the appellant was a child at the time, he could have obtained further information from his father for the purpose of this claim. The fact that he did not do so was damaging to his credibility [14]. The judge noted that the documents purporting to provide information from the police and hospital 'raise more questions than they solve' because they referred to an attempted rape, which the appellant denied at the hearing [15]. She concluded that those documents did not assist his case but did not make any clear finding one way or the other relating to the incident [16]. The judge also noted problems with the letter from the Peace Reconciliation Missionaries in Albania, which like the other documents, did not mention any connection between the attack in 2011 and the person called Kole. The letter simply referred to him being at risk from 'dangerous criminal bands' [17].
4. Having reviewed that evidence, the judge went on to conclude that there was no evidence as to the existence of Kole let alone the level of influence it is claimed that he might have. She found that there was no evidence to connect Kole with the incident in 2011. The appellant's father was able to defend the charges made against him in 2014. There was no adequate explanation as to why the appellant waited another four years before leaving Albania if he was at risk from Kole. His family continued to reside in Albania since he left in 2015 [18]. The judge concluded that there was insufficient evidence to show, even on the lower standard of proof, that there is a person called Kole who was involved in electoral fraud or that the appellant and his family were harassed by him as claimed. Even if the claim was taken at its highest, she did not consider that it was reasonably likely that Kole would continue to have any interest in the appellant now [20].
5. The appellant applied for permission to appeal to the Upper Tribunal on the sole ground of procedural fairness. The judge considered the original translation of a document that was said to be a medical report dated 07 September 2017 and a police 'Attestation' dated 11 September 2017. Both documents related to an incident that was said to have taken place on 13 December 2011. The original translations of both documents that were given to the Home Office both stated that the people who attacked the appellant 'wanted to rape him'. The error in the translation was only discovered at the hearing when the appellant was cross-examined. A further translation was commissioned and sent to the court by email on 12 May 2023, which corrected the translation to 'kidnap' rather than 'rape'. The judge failed to consider this further evidence.

6. I have considered the First-tier Tribunal decision, the evidence that was before the First-tier Tribunal, the grounds of appeal, and the submissions made at the hearing, before coming to a decision in this appeal. It is not necessary to summarise the oral submissions because they are a matter of record, but I will refer to any relevant arguments in my findings.

### **Decision and reasons**

7. I accept, as did Mr Melvin, that the translations of the police and hospital documents originally submitted to the Home Office may have contained an error in stating that the appellant was subjected to an attempted 'rape' rather than an attempted 'kidnap'. The account given in interview was consistent with the update translation of 'kidnap' and it seems that the appellant was surprised when it was put to him at the First-tier Tribunal hearing that it said that there was an attempted 'rape'.
8. The appellant's legal representatives, Evolent Law, assisted him to prepare for the hearing. If they had taken thorough instructions by preparing a detailed chronological statement, rather than a cursory piecemeal statement responding to various points in the reasons for refusal letter, the error in the original translation could and should have been identified before the hearing. It was for the appellant and his legal representatives to ensure that the evidence was checked and translated accurately. Even then, it should have been identified as a possible error during the course of the hearing once it was raised in cross-examination. If need be, the court interpreter could have assisted in identifying the error in re-examination. No criticism can be levelled at the judge for failing to consider evidence that was uploaded several days after the hearing.
9. Nevertheless, I have considered whether it is in the interests of justice for the decision to be set aside because of a procedural error. However, I have concluded that even if the judge had considered the new translation it would not have made any material difference to the outcome of the appeal. It is clear from the judge's findings that the main reason why she rejected the appellant's account was lack of any connection in the evidence from the police, hospital, or the Peace Reconciliation Missionaries to link the attempted kidnap with Kole.
10. In any event, it appears that the judge went on to consider the incident taken at its highest. Even if she had considered the new translation, she would have made the same finding that there was no evidence to link that event with the claimed problems with Kole. Even if she had considered the new translation, she would have made the same finding that there were no further problems for four years before the appellant left Albania. Even if she had considered the new translation, she would have made the same finding that his family had remained in Albania for many years without further problems. In the circumstances, it was open to the judge to conclude that there was insufficient evidence to show that the appellant would be at risk from Kole over ten years after the incident.
11. For the reasons given above, I conclude that the First-tier Tribunal decision did not involve the making of an error on a point of law.

### **Notice of Decision**

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

The decision shall stand

**M.Canavan**  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
23 August 2023