



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04719/2018

THE IMMIGRATION ACTS

Heard at Manchester
On 24th August 2018

Decision Promulgated
On 25th September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

Ms M.M
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms Wilkins, Counsel, instructed by Sentinel Solicitors

For the respondent: Mr McVeety, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The appellant has been given permission to appeal the decision of First-tier Judge RD Taylor.

2. The appellant is a national of Albania who claimed protection saying she was forced into prostitute in her home country and she would be at risk if returned. Her daughter, born October 2014, is her dependent.
3. The respondent did not find the account credible and did not accept she was a single mother. In any event, there was sufficiency of protection and if necessary she could relocate to a different part of Albania to avoid the claimed traffickers.
4. The Competent Authority had concluded she was not the victim of trafficking. First-tier Judge RD Taylor did not find her credible. The judge noted that the conception of her child coincided with a time when she said her husband returned from Italy. Consequently, the claimed risk of re-trafficking and difficulties with her own family did not arise.
5. Permission was granted on the basis it was arguable the negative credibility findings were flawed by not looking at the claim in the context of the country situation and information about trafficking. Reference was also made to the decisions of MS (Pakistan) [2018] EWCA Civ 594 and R -v- SSHD application of FK [2016] EW856.
6. It is not apparent how these decisions assisted the appellant. They deal with how a tribunal should deal with trafficking claims in light of a decision by the Competent Authority. Para 79 of MS (Pakistan) stated the trafficking decision is only susceptible to an indirect challenge on a statutory appeal where it is demonstrated to have been perverse or irrational or one which was not open to the authority. The Queen (on the application of) FK [2016] EWHC 56 (Admin) is also referred to in the grant of permission. It was a judicial review of a conclusive grounds decision. In the judicial review proceedings that decision was found to be unlawful in failing to consider the Guidance. In the present case there was no dispute about the trafficking decision.
7. It was also argued that the judge in making negative credibility findings failed to take into account the circumstances of the appellant's interview whereby she had recently given birth and her child, who was present, was distressed.

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8. At hearing, Ms Wilkins indicated she was no longer pursuing the argument advanced in relation to MS (Pakistan) [2018] EWCA Civ 594 and the decision of the competent authority.
9. Having considered the decision in its entirety, along with a refusal letter and the points made by the representatives I find no material error of law demonstrated.

10. I find this to be a well-reasoned decision which contains a concise record of the issues and the proceedings. The central issue was the credibility of the claim. The claim did not fail simply on the basis of inconsistencies in the account. Rather, the appellant was caught out in a lie by reason of her passport demonstrating travel to Italy. She said she had never been to Italy. Her husband was working there since mid-August 2013. Checks with the British authorities track movement from her passport to Italy. The travel from the passport contradicted her claim of events happening in Albania. When this was put to her it was then suggested on her behalf her passport might have been stolen and used for onward travel.
11. The decision was not made in a vacuum. The judge had the refusal letter which refers to country information as well as the appellant's bundle and information on the prevalence of prostitution. Paragraph 8 of the decision refers to the country information received by the judge. The judge was also clearly aware that the appellant was distracted because of her baby at her interview and the suggestion she was vulnerable.
12. At paragraph 10 the judge summarises the cross-examination. The appellant claimed she was forced into prostitution in mid February 2014 and did not know who the father of her child was. Her child was born on 10 October 2014. Medical records suggested she became pregnant in around December 2013 or early January 2014. This simple chronology undermined her suggestion the child was conceived as a result of her activities as a prostitute. In cross-examination the appellant sought to argue she did not know when her last period was. It was for the judge to assess this evidence.
13. There were other inconsistencies which undermined her credibility. She was university educated having enrolled in 2012 but claimed her husband stopped her attending in September 2013. However, she had married on 5 August 2013 and her husband had gone to Italy in mid August.
14. She was asked whether her husband returned to Albania. She referred him visiting for a week in December 2013. However, in her interview she said it was January 2014. When this inconsistency was put she said it was the baby that distracted her. There was also inconsistency between her account of always carrying her passport and her saying it was at her husband's house.
15. At paragraph 17 the judge deals with the central issue of the appellant's credibility. The judge highlighted not so much the implausibility of the account but the evidence produced by the respondent from the British Embassy about her movements. This was strong evidence that fundamentally undermined her claim. The judge was aware of the claim by the appellant that her passport could have been used by third parties. The judge gave a clear reason for rejecting this. This was a matter entirely for the judge. At

paragraph 18 the judge advances reasons for not finding the claim credible. I can find no fault with this.

16. In conclusion, I find this to be a well-reasoned and careful decision. The judge did not find the appellant credible and gave sustainable reasons for doing so, largely supported by external evidence. The judge alluded to the country information about trafficking and the claim that the appellant was a vulnerable witness. The decision indicates the judge was not operating in a vacuum but appreciated fully the arguments made.

Decision

No material error of law in the decision of First-tier Judge RD Taylor has been established. Consequently, that decision, dismissing the appellant's appeal shall stand.

Francis J Farrelly

Deputy Upper Tribunal Judge