



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/05658/2014

THE IMMIGRATION ACTS

Heard at Bradford
On 14 June 2016

Decision & Reasons Promulgated
On 11 July 2016

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

B S
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain, instructed by Bankfield Heath, Solicitors
For the Respondent: Mr Diwncyz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, BS, is a citizen of Albania. By a decision dated 1 October 2015, Upper Tribunal Judge Plimmer found that the First-tier Tribunal had erred in law such that its decision fell to be set aside.

2. At a resumed hearing at Bradford on 14 June 2016, Mr Diwncyz, Senior Home Officer Presenting Officer, appeared for the respondent and Mr Hussain of Counsel appeared for the appellant. The appeal is subject to a transfer order as Judge Plimmer is currently unwell.
3. I had the papers which had been before the First-tier Tribunal and Judge Plimmer in the Upper Tribunal together with updated medical evidence including a letter dated 13 June 2016 from the Mulberry Practice which recommended intense counselling for the appellant and referral to a psychologist, her mental health having deteriorated in recent months. I also had a letter from Dr Catherine Longshaw which is dated 16 May 2016. This records that, although the appellant has family members living in Albania, she does not have any contact with them and that she feels socially isolated and has repeatedly suicidal thoughts and intrusions. The report confirms that the appellant continues to be severely depressed with severe anxiety problems. The doctor noted that,

“Since the beginning of 2016 it has been noticeable that [the appellant’s] mental health has actually declined and she has increasingly become socially isolated. She used to go to English classes and other activity classes in the past but now these no longer hold any enjoyment or interest for her.”

The report records that the appellant’s medication has also been increased.

4. It is accepted that the appellant has been trafficked from Albania and that she cannot return to Tirana. The issue remaining in the appeal is whether the appellant could exercise the option of internal flight within Albania to an area where she would not be at risk.
5. The appellant replies on the expert report of Sonya Landesmann dated 18th November 2015. Significantly, Mr Diwncyz told me at the resumed hearing that the respondent took no issue with the findings and observations of Dr Landesmann. At [8] Dr Landesmann concluded that it was not “safe for BS to be returned to Albania. BS, has been shown as a highly vulnerable individual who has experienced being trafficked and who is at threat from her father.” Dr Landesmann goes on to explain that the threat from the father is a real one within her home area and that, given the nature of Albanian society, the appellant would be regarded as “shamed and disowned” and as an “outcast” if she were to be removed to a different area of Albania. Dr Landesmann observed that, “To be alone shakes the very foundations of Albanian society. BS would be considered an ignominious outcast. As such she would be considered fair game to anyone who wanted to abuse her. Re-trafficking would be a real and substantial risk.”

6. The respondent, as I have noted, does not take issue with the observations of the expert and nor do I. Her expertise on Albania (as revealed by her curriculum vitae) is substantial.
7. I heard evidence at the resumed hearing from Rachel Mullan-Feroze who through Ashiana has assisted the appellant. She described the appellant as “shut down and very withdrawn”. That evidence is consistent with the medical evidence to which I have referred above. All the evidence needs to be considered in the context of country guidance available, *AM and BM (trafficked women) Albania CG [2010] UKUT 80 (IAC)*. At the headnote of *AM* at (b) it states:
- b) At its worst the psychological damage inflicted on a victim of trafficking can lead to difficulties in reintegrating into Albanian society and has implications on whether or not it is possible for the victim of trafficking, should she fear persecution in her own area, to relocate.*
8. I have not been asked by the respondent’s representative to depart from the very clear medical evidence that the appellant’s mental condition at the present time is poor and had deteriorated in recent months. It is clear from the medical evidence that the appellant’s suicidal thoughts are, at least to some extent, linked to her feelings of social isolation. Such family members as the appellant has in Albania appear to be in Tirana where I find (as had the previous First-tier Tribunal on relying on the expert evidence) the appellant would be at risk from her father. I consider it likely in addition (again by reference to the expert evidence) that it may be possible for the appellant’s father and family members to locate her anywhere within Albania and having done so to harm her. However, even if the appellant were able to escape the threat from her father by living elsewhere in Albania I have to consider whether it would be unduly harsh to expect her to do so. There was no clear evidence that the appellant would actually become destitute though I query her ability to work given her current medical condition. More significantly, in my opinion, is the likelihood that, were she to live in an area of Albania where she had no social contacts whatever and where her single status might well attract suspicion and abuse, her feelings of social isolation and her already severe depression would become worse. As I have noted, there is a clear link in the evidence between the appellant’s social isolation and her suicidal thoughts. I cannot say that the appellant would attempt suicide in such circumstances but I do find that her medical condition (which has deteriorated in the months leading up to the resumed hearing) is such that it would be unduly harsh to expect her to live outside her home area of Albania. As such, the appellant succeeds in her asylum appeal.

Notice of Decision

The appellant’s appeal against the decision of the Secretary of State dated 3 June 2014 is allowed on asylum grounds and human rights (Article 3) grounds.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 4 July 2016

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

There is no fee order.

Signed

Date 4 July 2016

Upper Tribunal Judge Clive Lane