

1. The appellant's asylum and human rights claim was refused by the respondent for reasons set out in a letter dated 13th April 2018. His appeal before the First-tier Tribunal was refused for reasons set out in a decision promulgated on 22nd June 2018, following a hearing on 25th May 2018.
2. The appellant, who has been unrepresented throughout, sought permission to appeal in a handwritten note on the grounds that he had been suffering from mental distress and depression when interviewed by the respondent, that he has many sleepless nights thinking about his son in Sierra Leone and that he has a relationship with his son here in the UK.
3. First-tier Tribunal Judge Mailer granted permission to appeal to the Upper Tribunal in the following terms:

.....It is evident that the judge did note that he [the appellant] claimed difficulty with his memory and could not remember many alleged incidents. It appears from the Medical report produced that the appellant had reported problems with his short term memory. The report noted that he stated that he forgets information. He appears to struggle with keeping up with the questions and did appear to lose track when he was answering.

It is arguable that the judge may have erred in his summary of the report which led to his conclusions at paragraph 8. It is arguable that the case should have been adjourned to obtain proper information as to the appellant's potential memory problems, which might have affected his ability to remember details of his past.

4. The appellant was unrepresented before me. He did not seek an adjournment. In response to questions from me whether he had attempted to obtain legal representation he said he had contacted a number of legal advisors but the cost quoted for representation (some £2000) was more than he could afford. I was satisfied the hearing could proceed with the appellant in person, speaking through an interpreter who he confirmed he understood.
5. The appellant did not seek an adjournment of the hearing before the First-tier Tribunal. The judge nevertheless considered whether an adjournment was necessary and decided to proceed on the basis that the appellant had had adequate time to obtain legal representation. The judge considered the medical report. He notes in his summary that

The [medical report] makes no mention of cognitive problems or memory issues...

6. The report, which is dated 9th May 2018 and was written after attendance by the appellant at a clinic on 24th April 2018 states, inter alia,

Thoughts/Feelings – remained cohesive, logical, rational providing positive insight into current difficulties – no evidence of any incongruent or intrusive thoughts.

....

Cognitions – orientated as to time place and person. He reports problems with his short term memory. He states he forgets information; will struggle cooking due to poor concentration and memory. He appeared to struggle with keeping up with questions and did appear to lose track when he was answering.

Insight; very good insight into his symptoms and circumstances.

....

I felt [the appellant] was presenting with reactive depression in context of his current situation. He also presents with anxiety thoughts relating to his difficult circumstances.

I was not convinced he fulfilled the criteria for PTSD.

7. The First-tier Tribunal judge did not in his decision accurately record that the appellant was noted by the Mental Health team as having complained of memory problems.
8. Dealing first with the grant of permission on the basis that it was arguable an adjournment should have been granted to obtain further medical evidence. This is hopeless. The medical report produced was as a result of an examination only one month earlier. Although mention is made of memory issues these are to short term memory. There is an indication of a possible difficulty in concentration and keeping up with questions but there is no indication in the report that these presented as a significant difficulty for the hearing before the First-tier Tribunal. There is no suggestion in the report that further investigation is required or that a more detailed report should be obtained.
9. The basis upon which permission was granted was incorrect. There was no arguable error of law that an adjournment should have been granted.
10. Nevertheless, given the broad terms in which permission to appeal had been sought and because the appellant was unrepresented, Mr McVeety very properly addressed the decision of the First-tier Tribunal as to whether there was an identifiable material error of law.
11. The judge considered whether the appellant had memory problems which affected his ability to give evidence relating to the basis of his claim for asylum and concluded he did not. The First-tier Tribunal judge identified matters that cast significant doubt on the appellant's account of fear of the Poro Society when considered in the context of the country material before him. None of these matters required evidence that could be affected by short term memory loss; for example:
 - Inconsistent in his answers whether his older brother was a member of the Poro Society; it would be reasonable to know this;
 - That according to his evidence and the country material it is the oldest son who is expected to take over the role as senior member of the Poro Society yet the appellant is not the oldest son;
 - That the age at which membership was initiated varied between 7/8 and 10/11 and yet he claimed his initiation took place when he was 24;
 - The name given to the highest ranking member was not that described in the country material;
 - He was unable to provide details of the Poro society despite claiming to have been initiated as a member;
 - The witness evidence relied upon did not support his account
12. The judge also took account of the fact that although the appellant had arrived in the UK sometime in 2006, he did not claim asylum for some 10 years even though he claimed to have left Sierra Leone to escape problems and that his brother and sister had claimed asylum in the UK.

13. Although the appellant is recorded as having short term memory problems I am satisfied that those problems did not affect his evidence before the First-tier Tribunal. The judge reached findings on the asylum claim that were rational and clearly open to him on the basis of the evidence before him.
14. The appellant in his application for permission to appeal repeated detail about his family in the UK. Those claims were a repeat of evidence that had been considered by the First-tier Tribunal judge and do not disclose any evidence that was not considered by the judge but simply express a disagreement with the conclusions reached.
15. There is no identifiable material error of law in the decision of the First-tier Tribunal. I do not set aside the decision.

Conclusions:

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

I do not set aside the decision. The decision of the First-tier Tribunal stands; the appeal against the decision of the respondent rejecting the appellant's international protection and human rights claim is dismissed.

Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make an order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Date 14th September 2018



Upper Tribunal Judge Coker