



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/06548/2017

THE IMMIGRATION ACTS

Heard at Field House
On 23 May 2018

Decision & Reasons Promulgated
On 8 June 2018

Before

LORD UIST SITTING AS A JUDGE OF THE UPPER TRIBUNAL
UPPER TRIBUNAL JUDGE KEBEDE

Between

GE
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Ahmed, of Counsel

For the Respondent: Mr T Wilding, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, who was born on 29 March 1965, is a citizen of Sri Lanka who claimed asylum in the United Kingdom upon his arrival here in December 2000. On 24 February 2001 he was granted refugee status and indefinite leave to remain in the United Kingdom. During his time in the United Kingdom he has been convicted on six occasions of a total of nine offences and been sentenced to supervision, a community order, a hospital order and imprisonment for terms totalling one year, 5 months and 28 days. In December 2016 he was notified of the Secretary of State's

intention to cease his refugee status. A copy of the Secretary of State's letter was sent to the United Nations High Commission for Refugees (UNHCR). On 24 June 2017 the Secretary of State refused a protection and human rights claim by the appellant, thus formally ceasing his refugee status, and made a deportation order under section 3(5)(a) of the Immigration Act 1971 on the basis that the appellant's presence in the United Kingdom was not conducive to the public good in light of the fact that he was a persistent offender who, in the opinion of the Secretary of State, did not meet the exceptions set out in paragraphs 399 and 399A of the Immigration Rules and was no longer in need of international protection.

2. The appellant appealed to the First-tier Tribunal (FTT) under section 82(1) of the Nationality, Immigration and Asylum Act against the decision of the Secretary of State to deport him. His grounds of appeal were that he was a refugee whose deportation to Sri Lanka would place the United Kingdom in breach of its obligations under the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees (the Geneva Convention) and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR). The appeal was dismissed by First-tier Tribunal Judge (FTTJ) Easterman. The FTTJ found (at paragraph 68 of his decision) that the Secretary of State had shown, on the basis of the country guidance and the facts of the appellant's case, that, notwithstanding comments made by the UNHCR, there had been a fundamental and permanent change in the country circumstances in Sri Lanka since the appellant had been granted asylum and that the appellant could be safely returned to Sri Lanka. So far as Article 8 of the ECHR is concerned, the FTTJ found (at paragraph 85 of his decision) that the appellant had no protected family life in the United Kingdom and that his deportation to Sri Lanka would therefore not constitute an interference with his family life. So far as the appellant's private life was concerned, the FTTJ said that the only details of that with which he had been supplied related to his criminal convictions, that he did not accept that he would have real difficulties in reintegrating into life in Sri Lanka and that any interference with his private life would be in accordance with law and proportionate as he was not satisfied that the appellant would suffer persecution or any other substantial hardship in Sri Lanka.
3. On 8 February 2018 the appellant was granted permission to appeal against the decision of the FTT by FTTJ Gibb. His grounds of appeal were that FTTJ Easterman erred in law by (1) not providing adequate reasons for accepting that the appellant's presence in the United Kingdom was not conducive to the public good; (2) giving insufficient weight to the views of the UNHCR on the cessation of the appellant's refugee status; (3) failing to consider evidence as to the appellant's mental health; and (4) failing to consider the impact of the appellant's mental illness on his ability to access services in Sri Lanka. FTTJ Gibb, without specifically refusing permission to appeal on any ground, decided that the first ground was not arguable, commented that the second ground lacked merit and that the third ground lacked force as there had been extensive consideration of the medical evidence. He commented that the fourth ground justified further consideration as FTTJ Easterman had arguably not considered an important factor in the appellant's private life, namely, how his mental illness would impact on his ability to access services in Sri Lanka. He added that it was somewhat unclear what remained of the medical evidence after FTTJ

Easterman's rejection of parts of it, but it appeared that he had accepted enough to show serious mental illness connected to the appellant's offending history and it was arguable that the proportionality assessment required a full assessment of how this would impact on reintegration into life in Sri Lanka after an absence of 16 years.

4. We are satisfied, essentially for the reasons given by FTTJ Gibb, that there is no substance in the first three grounds of appeal. So far as ground 1 is concerned, the FTTJ had the statement of a police officer which was not challenged on behalf of the appellant. The appellant's criminal history was set out by the FTTJ at paragraphs 50 to 55. The FTTJ was well entitled, on the basis of that evidence, to hold that the Secretary of State could be satisfied that the appellant's presence in the United Kingdom was not conducive to the public good. So far as ground 2 is concerned, the FTTJ expressly referred to the comments of the UNHCR at paragraph 68 of his decision and he would have been well aware of what the Secretary of State had said about the UNHCR report in the second paragraph on page 5 of his decision letter. So far as ground 3 is concerned, the FTTJ dealt with the report from Dr Cutting at paragraphs 71 to 76 and 84 of his decision and explained why he found it hard to give this report significant weight and did not accept it at face value. At paragraph 84 he pointed out that the appellant had not found it necessary to visit mental health services since his release from custody in 2015 and stated that he had doubts about how much of the report from Dr Cutting he could rely on. He pointed out that, the background evidence for Sri Lanka indicated that mental health services existed but were not as good as those in the United Kingdom. He added that there was no reason to suppose that the appropriate medication, if needed, would not be available to the appellant in Sri Lanka. We reject the appellant's submission that the FTTJ failed correctly to address the totality of the evidence about the appellant's mental ill health.
5. Ground 4 asserts that the FTTJ erred and failed to make findings of fact as to (a) the circumstances of the appellant if returned to Sri Lanka without support, with no family remaining in Sri Lanka and with his serious and severe mental health issue; and (b) the impact of the foregoing upon him within the context of asylum and human rights. It is further asserted that there was no finding in fact that the appellant in the current status of his mental health would be able to access services and/or that he would be capable of making himself available to purported services in Sri Lanka. This last assertion is plainly wrong in light of what the FTTJ said at paragraph 84. Moreover, the FTTJ, having referred at paragraph 82 to the submission that the appellant should stay in the United Kingdom because he would not get treatment for his mental health issues in Sri Lanka and as a result not be able to integrate, or reintegrate, into life in Sri Lanka, explicitly refused to make a finding that the appellant would have difficulties in readjusting to life in his home country. The FTTJ then went on at paragraph 85 to deal with the limited evidence produced by the appellant about his positive Article 8 case and stated that "for the reasons given above" he did not accept that the appellant would have real difficulties in reintegrating into life in Sri Lanka. We are satisfied, from a reading of the FTTJ's decision as a whole, that he fully considered such evidence as was before him about any difficulties the appellant would be likely to face on his return to Sri Lanka and that he reached a conclusion which he was entitled to reach on that evidence. There was therefore no error of law on this point on the part of the FTTJ.

Notice of Decision

The making of the decision of the FTT did not involve an error on a point of law. We do not set aside the decision. The decision to dismiss the appeal stands.

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 8 June 2018

Lord Uist sitting as a Judge of the Upper Tribunal.