



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/10823/2017

THE IMMIGRATION ACTS

**Heard at Glasgow
On 27th September 2018**

**Decision issued
On 17th October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DEANS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

[Z G]

(No anonymity direction made)

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Brown & Co,
Solicitors

For the Respondent: Mr M O'Brien, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal brought by the Secretary of State against a decision by Judge of the First-tier Tribunal Lea allowing an appeal on protection grounds. The appellant before the First-tier Tribunal is hereinafter referred to as "the claimant".
2. The claimant is a national of Angola. She is married to a hospital doctor. Around 2016 there was an epidemic of yellow fever in Angola, from which children were dying in the claimant's husband's hospital. The claimant's husband asked contacts in Brazil and Portugal to send medicines. He did not want the Angolan government to know he was doing this in case he got into trouble. In October 2016 the claimant's husband told her that he and two of

his medical colleagues had received threatening letters and texts. In November 2016 one of his colleagues stopped coming to work and stopped responding to calls.

3. On the night of 22nd December 2016 a gang of men came to the claimant's house. They beat her husband and said he had been protesting against the government because of the problem with children in the hospital. The men threatened to harm the claimant's children. Three of the men raped her. Her husband was abducted. The claimant's eldest daughter was hiding and phoned the police but the police did not come that night. The next day the claimant reported the abduction and rape to the police.
4. A week later a doctor who was a colleague of the claimant's husband was found dead in his car along with his wife and child. The deaths were not reported in the media. A friend of the claimant's husband told her she was in danger. He arranged for her to hide and to travel to the UK with her children.
5. The Judge of the First-tier Tribunal accepted the evidence of the persecution of the claimant and her husband at the hands of the Angolan government. If the claimant were to return to Angola she would be a lone female with three children. She would be vulnerable and subject to persecution. Her case had not been publicised in Angola and the different branches of the Angolan authorities might not be aware of her situation. Nevertheless, given her circumstances, including anxiety and high blood pressure, it would be unduly harsh to expect the claimant to relocate.
6. Permission to appeal was granted on the basis that it was arguable the judge failed to give adequate reasons for finding the claimant's evidence to be credible and, in particular, failed to address the Secretary of State's reasons for taking the opposite view.

Submissions

7. In her submission at the hearing before me, Mrs O'Brien relied upon the grounds set out in the application for permission to appeal. She submitted that the Judge of the First-tier Tribunal failed to engage with the challenges to credibility in the Secretary of State's reasons for refusal letter and with the background evidence. The judge based her credibility finding on the consistency of the claimant's account without considering whether the events she narrated were likely to have occurred on the basis of what was known from external sources. The judge failed to address conflicts in the expert evidence on the likely actions of the Angolan authorities. There was a lack of objective verification. The claimant had sought the protection of the police after the alleged attack, although the expert evidence claimed it was implausible for her to have done so. The judge accepted that in doing this the claimant was motivated by

fear but this showed the inadequate treatment of the evidence. In addressing the possibility of internal relocation the judge failed to consider the availability of medical treatment being given to the claimant. The judge failed to consider any risk to the claimant in the long term and did not adequately consider the position of the children under s 55.

8. For the claimant Mr Winter relied on a rule 24 response, accompanied by a list of authorities. He submitted that on the basis of Shizad (sufficiency of reasons: set aside) [2013] UKUT 00085 the decision of the First-tier Tribunal should not be set aside unless the judge's conclusions were not reasonably open to her. There was no reason to suppose she did not have all the relevant factors in mind. The decision took account of the Secretary of State's reasons for refusal letter and the medical evidence. The background evidence referred to censorship. The judge addressed both the consistency and plausibility of the claimant's evidence. The Secretary of State's refusal letter addressed credibility but did not address the issues either of sufficiency of protection or internal relocation.

Discussion

9. As Mr Winter pointed out, the judge correctly referred to the low standard of proof in a protection appeal. Even if the background evidence indicated that a particular event was unlikely to have occurred, it was still open to the judge to find that the event did in fact occur, provided adequate reasons were given for such a finding. The focus in this appeal must therefore be on the judge's reasons supporting her favourable credibility findings, as stated in the grant of permission to appeal.
10. If the judge failed to engage adequately with the Secretary of State's reasons for disbelieving the claimant this would amount to an error of law. The application for permission to appeal states that a "plethora of credibility points" were raised in the reasons for refusal letter. These include, for example, questioning how the claimant knew the threats were from the government; why her husband did not give her more information if he was trying to protect her; why the death of her husband's colleague was not reported in the media; if, as the claimant said the police were investigating the deaths of this colleague and his family, how were the government able to prevent media coverage; why would the police question people about the deaths if the government was behind them; why did the men who came to the claimant's house on 22nd December not find her children; why did the claimant wait until the next day before going to the police; why did the police treat the account of the claimant's husband's abduction as a missing person case when the police in Angola have had some success in tackling kidnapping; and what compelling reason did the claimant have for attributing events to the government.

11. A feature of these criticisms of the claimant's account is that they are directed at plausibility rather than consistency. It was largely undisputed that the claimant's evidence was consistent. The question is whether the judge entitled also to find that it was plausible?
12. The judge referred to an expert report by Dr Ingle Amundsen lodged on behalf of the claimant. Clearly this was not before the Secretary of State when the refusal letter was written. At paragraph 27 of the decision the judge summarises the report as follows: "The report confirms that the Angolan government is very sensitive to international criticism and reputational damage and that a doctor's notification of a possible yellow fever epidemic to an international health organisation would be seen as a possible reputational threat and perceived as anti-government activity. The expert report also refers to the proliferation of private and semi-official security companies doing dirty work on behalf of the government which is consistent with the Appellant's description of a gang at her screening interview. The expert report also confirms that it is plausible that the Angolan government has prevented the media from reporting on the suspicious death of the appellant's husband's colleague as the Angolan government has a long record of indirect censorship and coverups."
13. At paragraph 32 the judge records the Secretary of State's view that the background evidence does not record any evidence of politically motivated disappearances. The judge notes, however, that the expert report shows that this might be explained by the Angolan government's record of indirect censorship and coverups. The expert report also refers to an Amnesty International report which states that intimidation, imprisonment and forced disappearances occur in Angola.
14. At paragraph 28 the judge addressed the question of why the police would deal with the claimant's husband's disappearance as a missing person case. The expert report confirmed that a report of a missing person would not be accepted by the police until 72 hours after the disappearance but states that "high risk reports" are escalated sooner. The judge expressed surprise that the police did not follow up the claimant's account of her husband being beaten and abducted more quickly. The expert report states it would not be rational for the claimant to approach the police if she believed the authorities were responsible for her husband's abduction. The judge pointed out that the claimant had been gang-raped and would not necessarily have been acting rationally. In addition her evidence was that she was desperate and did not know what else to do.
15. At paragraph 29 the judge refers to an apparent discrepancy over whether the claimant's daughter telephoned the police on the

night of the attack, which was not mentioned at the claimant's interview. The judge pointed out, however, that at her interview the claimant was asked only if she had gone to the police that night, not whether they were telephoned. The claimant's explanation for not going to the police on the night of the attack, as recorded in the refusal letter, was that she did not want to go when it was dark.

16. On the issue of why the police would investigate the death of the claimant's husband's colleague if the government was responsible, the judge recorded at paragraph 31 the claimant's explanation that the local police would not necessarily know of any government involvement.
17. At paragraph 25 the judge records that it was put to the claimant in cross examination that the background evidence showed that there was a black market in vaccines and that the criminals targeting her husband had nothing to do with the government. The judge commented at paragraph 30 that the claimant's "account of her husband being a paediatrician and he and his colleagues being concerned about the lack of vaccine for the yellow fever epidemic and approaching the international press to ask for help in obtaining medication is backed up by the background information showing that there was a yellow fever outbreak at this time and a lack of vaccines available in Angola."
18. Overall the position is that while the Secretary of State considered at the time the refusal letter was written that the claimant's account was almost wholly implausible, the judge relied upon the expert report and other aspects of the background evidence to find that the events described by the claimant were not implausible. The judge found that the claimant did not always have a rational explanation for her actions but this was not surprising under the circumstances. On the evidence before her these were findings the judge was entitled to make.
19. The judge did not respond to every issue raised in the refusal letter and was not required to do so provided she gave adequate reasons for her findings. Not all of the questions raised in the refusal letter have been answered. It may be inferred from the judge's decision, however, that the judge was satisfied that the claimant provided all the information she had and that even where some parts of the claimant's account were not fully explained this did not detract materially from its credibility. I am not satisfied that there is any error of law in the judge's reasoning in support of her credibility findings.
20. There are certain further issues raised by the Secretary of State which I should address. The first of these in the application for permission to appeal states that there is very little medical evidence

to support the claim of rape. It is not clear if this argument was aired before the First-tier Tribunal. There is of course no requirement for corroboration. The judge referred to a letter from the claimant's GP and a letter for the Glasgow Rape Crisis Centre. The Secretary of State pointed out in the application that these are both based on what the claimant had said. The judge was nevertheless entitled to take this evidence into account in relation to the consistency both of the claimant's evidence and of her reaction to having been raped.

21. The question of whether the claimant might re-integrate into Angola was raised before the First-tier Tribunal, though not in the reasons for refusal letter. On this matter the judge had regard to the expert evidence and the claimant's particular circumstances. The judge's reasons in this regard disclose no error of law. Mr O'Brien submitted that the judge did not take a view on the prospect of re-integration in the long term but the judge was required to look at the situation now and in the immediate future. The question of whether medical treatment would be available for the claimant in Angola was no more than a subsidiary issue and was not determinative.
22. Mrs O'Brien also questioned whether the judge had adequate regard to the best interests of the children. The judge referred to this test at paragraph 37 of the decision. It was accepted by the Secretary of State in the refusal letter that the best interests of the children were to be with their mother. The judge expressed doubt as to whether it would be in the best interests of the children to return to Angola given the claimant's vulnerable state and lack of support and this finding was open to the judge.
23. Fundamentally in this appeal the Secretary of State disagrees with the judge over the plausibility of the claimant's account. Having examined in detail the judge's reasons for accepting the claimant's evidence as credible, I am satisfied that these reasons are adequate. The judge was entitled to rely, in particular, on the expert report. I am not satisfied there is an error of law in the judge's decision.

Conclusions

24. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
25. The decision allowing the appeal shall stand.

Anonymity

The Judge of the First-tier Tribunal made a direction for anonymity. I was not asked to reaffirm this direction and I am not satisfied of the need to do so.

Fee order (N.B. This is not part of the decision)
As no fee has been paid or is payable I make no fee order.

Deputy Upper Tribunal Judge Deans
October 2018

13th