



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

Appeal Number: PA/14028/2016

THE IMMIGRATION ACT

**Heard at Field House
On 21st March 2018**

**Decision & Reasons Promulgated
On 6th April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

**NC
(ANONYMITY DIRECTION MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bellara Counsel instructed by Ilford Law Chambers

For the Respondent: Ms Ahmed Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Housego promulgated on the 17th July 2017 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's protection claim on the grounds of asylum, humanitarian protection and Articles 2 and 3 of the ECHR.
2. I have considered whether or not it is appropriate to make an anonymity direction. Taking all of the circumstances into account I consider it appropriate to make an anonymity direction.

3. Leave to appeal to the Upper Tribunal was granted by Upper Tribunal Judge Grubb on 22nd January 2018. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.

4. The material part of the grant of leave provides:-

2 The Grounds argue that the Judge failed to assess properly the evidence of a witness and overlooked key background evidence (COIS Report) concerning the lack of protection single for women and in domestic violence cases.

3 The whole of the appellant's claim had to be seen in the light of the up-to-date objective evidence and it is arguable that the Judge has not done so. I am also concerned that the judge - whilst accepting the appellant is a truthful witness - nevertheless did not accept a core part of her claim which was supported by the witness and in respect of which the Judge did not make any findings. For these reasons the Judge arguably erred in law and permission to appeal is granted on all grounds.

Facts

5. To a significant degree the judge found the evidence of the appellant credible. The appellant is a national of Algeria, who came to the United Kingdom as a student. The appellant's father was deceased and she in the main lived with her mother, sister and brother-in-law, although for a period of time after having been in the UK she returned to Algeria and lived with an aunt.

6. The appellant had first arrived in the UK in November 2011. At various times she had returned to Algeria, including 2012 and 2013, to apply to extend her visa. The appellant left the United Kingdom in 14th March 2013 returning to Algeria but she re-entered the United Kingdom allegedly on 24th March 2014, although it is unclear on what basis she entered, as at that stage her student visa had ceased.

7. There is reference in the decision to the fact that the appellant had lived for a year in Algiers in 2014 without any difficulty, living with her aunt. The appellant's brother lived over 200 km away from where the aunt lived.

8. Having entered in March 2014 it was only in June 2016 that the appellant claimed asylum. The appellant was not lawfully in the UK. It was after June 2016 that there were asylum screening and substantive interview.

9. The appellant had alleged that her brother had taken exception to the fact that she had been educated in the United Kingdom and that she had to a significant extent become independent. The appellant is well educated having a Masters degree in English and coming allegedly from a wealthy family. She had been able to support herself through her education.

10. The appellant feared that if she were returned to Algeria she would be subjected to domestic violence by her brother and would be at risk of being forced into a marriage. In support of her claim she had produced a

number of letters from her brother and mother. Whilst the brother in the letters was indicating he wanted the appellant to marry a groom chosen by him, other members of the family including the appellant's mother, sister and brother-in-law and uncle and aunts were supporting the appellant.

11. Whilst the judge accepted the evidence of the appellant that her brother took exception to her education and independence, what the judge did not accept was that as a result of that the appellant would be at risk of an honour killing or would be at risk of domestic violence if returned to Algeria. The judge found that as the brother was not living at the same address as the appellant and the appellant's mother and family but was living separately with his own family and as the appellant was supported by her mother, sister and brother-in-law and her aunt and family, the appellant would not be at risk if returned to Algeria. In coming to that conclusion the judge took specific account of the fact that the appellant had for periods of time returned to Algeria and had managed to live for a period of over 12 months with an aunt without any apparent problem.
12. In part to support her account the appellant had relied upon the evidence of Mr Poor. As part of his submissions the appellant's representative sought to argue that the evidence of Mr Poor was corroborative of the appellant's account and corroborative of the fact that the appellant would be at risk on return to Algeria. The difficulty with that is that it cannot be said that Mr Poor had any independent knowledge of the appellant's family, specifically the appellant's brother, or how they, or specifically he, would treat the appellant on return to Algeria. Mr Poor had come to the United Kingdom over 27 years ago and had no personal knowledge of the appellant's family's circumstances or of the appellant's brother. It is not suggested that he had any direct contact with the appellant's brother or with any of the appellant's family. It is clear from paragraphs 5 and 6 of Mr Poor's statement that he was relying upon what he had been told by the appellant and not upon independent knowledge of the family or the circumstances in Algeria. As such his evidence was not from an independent source and was merely repeating what the appellant's account was.
13. Whilst the appellant's representative maintained the point he accepted to an extent it was subsidiary to the main point within the appeal which related to whether the judge had taken account of the background materials submitted, including documents referred to as R2 and R3 submitted by the respondent. The documents are specifically referred to within paragraph 30 of the decision.
14. R2 is a document headed Country Information and Guidance-Algeria: Sexual Orientation and Gender Identity. It is summarised in paragraph 30 of the decision as referring to "*the family code describing her marriages considered as marking the passage to adulthood, that the consent of a male guardian is required, but that consent is required from the woman so that forced marriages not permitted*".

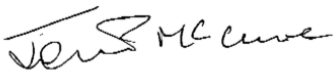
15. During the course of argument no reference was made to any specific paragraph from R2, or indeed R3, which did not accord with the summary set out in the decision. The major part of the document deals with the claims made by lesbian, gay bisexual and transgender individuals. It seeks to deal with the risk that may exist in respect of LGBT individuals, the social pressures that will be brought to bear upon them, whether an individual would or would have to resort to concealment of their sexuality because they fear the risk of persecution. In the main the document appears to be dealing with a person's personal sexual identity rather than violence against siblings and forced marriages. Both documents were produced by the respondent.
16. That COIS report and the documents referred to, to a lesser degree, also dealt with the difficulties faced by single women in Algeria and the lack of protection in domestic violence cases.
17. The document does appear to make reference to the fact that women to an extent are perceived as fulfilling a specific role and that they may suffer legal and societal discrimination and as such that they constitute a particular social group but the evidence was not such that they were at risk of persecution. The appellant in evidence was not seeking to suggest that she was a member of the LBGT or that her claim was related to her sexual identity but did indicate that she wanted to be independent and marry, if she was to be married, to a person of her own choosing.
18. As referred to in paragraph 30 of the decision R3 was to an extent a response to a request [by COIS] for information on sexual and domestic violence. The document dealt with the treatment of single/ lone women. There were limitations upon freedom of movement especially in rural areas and some degree of discrimination in employment, including precondition for freedom of movement and employment in rural areas being that a woman should veil. However there were also references to women being members of parliament and working in a professional capacity.
19. At paragraph 3.1.1 there was reference to action by the government to raise public awareness of the rights of women and to then encourage them to report domestic violence. The report identifies that the police have a reluctance to become involved in what they consider private family matters. Much of the domestic violence appears however to be by a partner.
20. The summary by the judge seems to encapsulate the main points within the report. Accordingly the judge clearly had in mind what the report said when coming to his conclusions.
21. The judge has given valid reasons for finding that taking account of all the circumstances, especially the fact that the appellant was receiving support from members of her family including male members of the family that the appellant would not be at risk of domestic violence from her brother if she

were returned to Algeria. The judge has given valid reasons for coming to the conclusions that he has. The judge has clearly considered the background reports and given valid reasons for his approach to the facts of the case.

22. The judge clearly did consider the reports highlighted. As indicated the evidence of the witness was of limited value. For the reasons set out the judge was entitled to come to the conclusions on the facts as presented.
23. In the light of the matters set out the judge has not made a material error of law.

Notice of Decision

24. I dismiss the appeal.
25. I make an anonymity direction

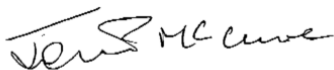
Signed 

Date 29th March 2018

Deputy Upper Tribunal Judge McClure

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 the appellant or any member of the appellant's family. This direction applies both to the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings



Signed
2018

Date 29th March

Deputy Upper Tribunal Judge McClure