Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/05298/2018**

THE IMMIGRATION ACTS

Heard at Glasgow	**Decision & Reasons Promulgated**
On 5 July 2019	**On 10 September 2019**

Before

Mr C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE MACLEMAN

Between

LINH DUY BACH

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T D Ruddy, of Jain, Neil & Ruddy, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against the decision of FtT Judge Montgomery, promulgated on 5 September 2018, on the grounds set out in his application filed on 9 October 2018.

2. The grounds are substantially based on propositions that the judge overlooked parts of the evidence, failed to consider other parts, including amendments proposed by the appellant to his interview record, or gave insufficient weight thereto, and wrongly identified inconsistencies. Those points are made intricately and at length. We were much assisted in following them by Mr Ruddy's provision of an orderly set of extracts from the evidence.

3. Ground 1 challenges paragraph 17 of the decision. The judge noted that the appellant said from the outset that he was in a fight with government troops at a demonstration, but found inconsistencies of detail. At interview Q/A 46 he said that he broke an officer's nose, later amended to arm, which she found (generously, perhaps) to be explicable. However, more importantly, at screening interview he did not mention that he assaulted a police officer or was wanted by the police, "a significant omission".

4. Mr Ruddy took us to the screening interview at 4.1, "There was a fight at the demonstration between my group and the government", and to the appellant's amendments to his interview, where he maintained that he misunderstood the question whether he had ever been accused or convicted of an offence.

5. A judge does not have to accept every explanation or amendment offered by an appellant, and does not have to mention every specific and successive assertion made. The judge was right in observing that the assault, and being wanted by the police, were not mentioned at the screening interview. We see no error in treating that as significant.

6. Ground 2 is based on the appellant having understood Q47 of his interview to be not, "When was the demonstration?" but, "When was the incident which gave rise to the demonstration?".

7. We are not persuaded that the judge did not give enough consideration to the appellant's amendment, or that her decision "does not reflect accurate consideration of the evidence in the round". The explanation was not overlooked. It was found unlikely. It was well within the judge's scope to reject this rather tortuous attempt to explain away a plain question and answer within the flow of the interview, and she gave sensible reasons.

8. Ground 3 challenges paragraph 19. The ground is based on the appellant not having meant at interview that 2 persons were arrested on 27 June 2013, but that on that date their families, who previously thought they were missing, discovered they had been arrested. We note than in his statement he accepted that he might have created confusion. The judge says at paragraph 19 simply that the fact remains that he has given "inconsistent accounts of what happened in each retelling" and "very different accounts of what happened when". There is no error in those observations.

9. The judge did go on in her decision, in the round, to take those inconsistencies against the appellant, but we see no error in that either.

10. Ground 4 complains that the Judge accepted that there were demonstrations on dates specified by the appellant, yet found that he had "not given a clear account consistent with that objective evidence". The ground fails to read the Judge's observation in context. She did not mean that his account was inconsistent with demonstrations having taken place on those dates. She meant that it was inconsistent in other ways, and was not significantly improved by proof that were demonstrations when he said there were.

11. It is unnecessary to explore grounds 5, 6 and 7 in detail, as they are all in similar vein.

12. Ground 8 takes the same line, but directed against the finding in terms of section 8 of the 2004 Act.

13. Ground 10 goes to the weight (or lack of weight) which the judge attributed to letters from priests to support the appellant's evidence that he is a Roman Catholic.

14. Grounds 11 and 12 sum up, and add nothing.

15. Ground 13, which Mr Ruddy rightly did not press, is directed against the claim under article 8 of the ECHR. There was nothing in the case by which there might have been another outcome under article 8.

16. The presentation for the appellant in the FtT and in the UT has been painstaking. Everything which might have been said on his behalf has been said. However, the judge was not bound to accept his final version of the claim. She noted his amendments in considerable detail, and found it regrettable that he had not had the opportunity also to offer (to the respondent) proposed amendments to the transcript of the supplementary interview. She was fully aware of the evolving case. She came to factual conclusions which were open to her, and she gave a legally sufficient explanation.

17. The grounds insist on the appellant's case as he finally developed it, but they do no more. They do not show that the judge's resolution of that case involved the making of any error on a point of law.

18. The appeal to the UT is dismissed. The decision of the FtT stands.

19. No anonymity direction has been requested or made.

9 September 2019
UT Judge Macleman