



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number PA/12221/2018

THE IMMIGRATION ACTS

Heard at Birmingham
On 4th September 2019

Decision and Reasons Promulgated
On 13th September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

M B
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Ms H Aboni (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant's appeal against the refusal of his asylum claim was dismissed in a decision of First-tier Tribunal Judge Perry promulgated on the 13th of March 2019. The Judge accepted that the Appellant is gay but found that he would not be at risk in Algeria on return.
2. The Appellant sought permission to appeal maintaining that his life would be in danger in Algeria if returned and that his life was significantly better in the UK. Permission was granted on the basis that the decision was insufficiently nuanced and may not have adequately addressed the risks that the Appellant would face on return.
3. The Judge was obliged to apply the guidance in OO (Gay Men) Algeria (CG) [2016] UKUT 65 (IAC). From that case the guidance is that where a man is known to be gay the threat to him comes from his family and unless there is an unusual feature of the

Appellant which would attract adverse attention contrary to what usually happens the treatment of homosexuals in Algeria does not amount to persecution.

4. The Judge accepted that the Appellant's risk came from his family but there is nothing in the evidence that shows that there were any features unique to the Appellant that would meet the guidance in paragraph 6 of the headnote in OO. The Appellant's evidence of his fear of the men with beards and tight minds was not borne out in the country guidance and there was no supporting evidence before the Judge that would have justified departing from OO.
5. The Appellant's submissions at the hearing before me reflected the concerns he raised before Judge Perry and in the grounds of application. I would accept that the Appellant has a subjective fear of return to Algeria. However, that is not borne out by the guidance in OO and the Appellant cannot bring himself within the risk categories that were binding on Judge Perry and me.
6. For the reasons given above the legal framework that applies means that there is no basis for finding that Judge Perry erred in law. Accordingly the Appellant's appeal is dismissed and the decision of Judge Perry remains as the disposal of the Appellant's appeal.

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.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

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

Fee Award

In dismissing this appeal, I make no fee award.

Signed: 

Deputy Judge of the Upper Tribunal (IAC)

Dated: 5th September 2019