



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: HU/15052/2019 (V)

THE IMMIGRATION ACTS

Heard at Manchester CJC **Decision & Reasons**
At a remote hearing via Skype for **Promulgated**
Business **On 16 December 2020**
On 8 December 2020

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**RA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Jagadesham, Counsel

For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS (V)

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 his 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.

Introduction

1. The appellant, a citizen of Morocco, has appealed to the Upper Tribunal ('UT') against a decision of First-tier Tribunal ('FTT') Judge Handler sent on 25 February 2020, dismissing his appeal on human rights grounds.
2. The FTT made an anonymity direction because the appellant has been accepted to be a victim of trafficking ('VOT'), and I maintain that order. The FTT also treated the appellant as vulnerable and I continue to do so.

Background

3. The appellant was born in 1995 and first entered the United Kingdom ('UK') on 15 July 2011, when he was about 16. His immigration history is lengthy but it is only necessary to summarise it for the purposes of this decision:
 - although his 2011 asylum claim was refused, the appellant was granted DL as an unaccompanied minor on 30 September 2011;
 - in December 2011 the respondent accepted that the appellant was a child VOT;
 - the FTT allowed the appellant's human rights appeal in a decision dated 24 September 2013
 - the appellant was granted leave on the basis of his family life with his partner between 2016 and 2019;
 - when that relationship ended he made an application based upon his private life, which was refused in a decision dated 21 August 2019 - it is against this decision that the appellant appealed to the FTT.
4. The FTT accepted significant aspects of the appellant's evidence, in particular: he had a difficult childhood in Morocco and was involved with drug gangs there from an early age; he was trafficked into the UK in 2011 (when he was 16) and involved in using and selling drugs for the drugs gang until around 2013/14 (when he was around 18/19); he has a number of mental health conditions as set out in the report of Professor Katona dated 17 February 2020, including *inter alia* complex PTSD.
5. The FTT considered the appellant's evidence about his family to be "*very inconsistent*" at [24] and concluded that upon return to Morocco, he would be assisted by the support of his family [43]. This together with the matters set out at [40] to [44] led the FTT to conclude that the appellant would not face very significant obstacles

to re-integration with Morocco and his removal would not breach Article 8 of the ECHR.

Appeal to the UT

6. The appellant challenged the FTT's decision in grounds of appeal prepared by Mr Jagadeshm (who also appeared on behalf of the appellant before the FTT and before me). The renewal grounds of appeal to the UT are three-fold and summarised here:
 - (1) In drawing adverse inferences from the appellant's inconsistencies regarding his family in Morocco, the FTT failed to take into account relevant evidence.
 - (2) The FTT irrationally concluded that the appellant would not face very significant obstacles to reintegration with Morocco in the light of the risk of re-trafficking there.
 - (3) The FTT failed to address Professor Katona's evidence as to the risk of this appellant being re-trafficked.
7. UTJ Kamara granted permission to appeal in a decision dated 25 June 2020.

Error of law

8. Mr Tan submitted that the FTT's findings at [24] and [28] i.e. the appellant's inconsistent evidence regarding his contact with family in Morocco supported the conclusion that he remained in touch with them, was open to the FTT. Mr Tan reminded me that the inconsistent information was provided to a variety of professionals.
9. After hearing from Mr Tan and very briefly from Mr Jagadeshm I indicated that ground 1 was made out i.e. the FTT's finding that the appellant had been in contact with his family in Morocco and will be able to contact them upon return contains clear errors of law for the reasons identified in the grounds of appeal. The FTT failed to take the following relevant matters into account before concluding that inconsistencies undermined the appellant's claim that he had no contact with his family since being abandoned by them at a very young age:
 - (i) Mr Tan was correct to point out that the inconsistencies regarding the appellant's family as identified by the FTT at [24] all relate to what he is recorded to have said to professionals. However, as I pointed out during the course of Mr Tan's submissions, this reporting relates to 2012 - at this time, it was undisputed that the appellant was a recent arrival to the UK as a

child VOT and continued to be under the control of his traffickers until 2013/2014. I invited Mr Tan to take me to any other evidence wherein the appellant made references to contact with family after 2014, but he was unable to do so.

- (ii) The appellant explained in his witness statement dated 21 January 2020 that the account he provided regarding his family details was a false one based upon that which he was told to say by the traffickers – a plight faced by many VoTs as set out in the guidance referred to in the grounds of appeal. The FTT has not addressed this explanation. The FTT judge indicated at [28] that she did not “*accept he would have made up the specific details*”. This failed to engage with the appellant’s explanation at [10] and [11] of his statement that he did not make up the specific details but was told by the traffickers to maintain the lies about his past.
 - (iii) Professor Katona’s report (to which the FTT attached “*significant weight*”) included a detailed and comprehensive account of losing contact with his parents at an early age and his brother from the time he left the hostel – see in particular section 2 and [4.32] of the report.
10. In these circumstances, the FTT irrationally concluded that these inconsistencies could not be reasonably explained at [28]. The linked conclusion that this appellant, who was under the control of traffickers both in Morocco, around Europe and then for a significant period of time after arrival in the UK, would have been able to reasonably ignore their coercion and control irrationally failed to take into account relevant cogent evidence.
11. Mr Tan reminded me that the FTT concluded that this appellant would be resilient enough to cope with challenges in Morocco. This is based upon the reasoning to be found between [37] and [43]. Whilst the finding as to family contact in Morocco could in no way be said to have been determinative, the FTT regarded it as relevant and referred to it twice at this part of the decision ([37] and [43]). I am satisfied that this played a material role in the overall assessment. I am therefore satisfied that the error of law as to family contact infects the FTT’s assessment of the appellant’s circumstances in Morocco and the risk of being re-trafficked. It follows that all the grounds of appeal have been made out.

Disposal

12. Some of the key aspects of the relevant factual matrix have already been decided in the appellant’s favour, in particular his claim to be a child VOT and the diagnosis contained in Professor Katona’s report. For this reason I preserve the positive findings at [27]. This limits the necessary fact-finding, but important aspects of the factual matrix still need to be re-made.

13. Mr Jagadesham also pointed out that the appellant had submitted an international protection claim based upon his risk of being re-trafficked. The respondent may not agree to treat this as a fresh claim but if she does it would be helpful to have the matters linked, if it possible to do so without delay. In this regard I bear in mind Professor Katona's report, which supports an early resolution of the disputed issues in this case.
14. Having considered the terms of the relevant Practice Statement and the overriding objective, I am satisfied that the matter should be remitted to the FTT. For the reasons I have summarised in the previous paragraph it would be helpful to have an early case management hearing before the FTT.

Decision

15. The decision of the FTT contains a material error of law and is set aside. It is remitted to the FTT to a judge other than Judge Handler.

Signed: *UTJ Melanie Plimmer*
Upper Tribunal Judge Plimmer

Dated: 8 December 2020