



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003794
First-tier Tribunal No:
PA/51074/2021
IA/02678/2021

THE IMMIGRATION ACTS

Heard at George House
On 23 November 2022

Decision & Reasons Promulgated
On the 01 February 2023

Before

UT JUDGE MACLEMAN

Between

NAJMULDEEN ABDULRAHIM

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Latta & Co, Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge D H Clapham dismissed the appellant's appeal by a decision promulgated on 12 April 2022.

2. The appellant sought permission to appeal to the UT on ground 1 “appellant’s narrative”, (i) – (v); 2, “sufficiency of protection”, and (3) “CSID”, (i) – (iii).
3. FtT Judge Brewer granted permission on 16 August 2022, on the view that arguably the Judge should have raised her credibility concerns at the hearing, where the respondent was not represented, and did not give adequate reasons in certain respects.
4. Ground 1 is a set of challenges to adequacy of reasoning.
5. The Judge’s reasoning begins with a series of rhetorical questions. The appellant’s claim started with a neighbour seeing him through a window while he was meeting his former girlfriend secretly at her parents’ house. At [27] the Judge queries why they would take such a chance, even if that was not the main family residence. Sub-ground (i) says there was no evidence that the couple would have arranged to meet there if anyone else might be at the house. Mr Winter said the evidence had been that this was a holiday home where no one else was likely to be.
6. The Judge’s point may not be a strong one, but it is not beyond reason, and is not the crux.
7. Sub-ground (i) also challenges the Judge’s query, “Why would he take the chance of leaving his car outside the house in the first place?” Mr Winter said the evidence had been that he parked further away to avoid notice. Mr Mullen did not contest that.
8. There is a slip here on a factual matter.
9. At [28] the Judge says:

If ... the man may have watched him because he was not meant to be there why did he not report the position to the appellant’s girlfriend’s father? He could not have done so since as the appellant states his girlfriend is now married.
10. Sub-ground (ii) says that the reader is left in doubt:

... why the FtT expects the appellant to have reported the matter to his girlfriend’s father when that would have revealed the ... relationship.
11. I think this sub-ground misreads the decision. The Judge’s view was that the watcher might have made the report, not the appellant.
12. That might be said to border on speculation, but it is far from irrational. The fact that the appellant said his girlfriend later married is not self-evidently fatal to his account, although that point is not taken on his behalf. This passage of the reasoning withstands scrutiny.
13. Sub-ground (iii), on why the appellant might telephone his friend in the security services and (iv), on why he might be able to obtain evidence

from his brother, are similar claims that the FtT's doubts are not clearly explained.

14. Sub-ground (v) is based on the appellant having claimed that "he was targeted as the man arrested was part of the terrorist group." The challenge is to [32]:

The expert ... states that *Ansar Al-Islam* does not have a major presence in Iraqi Kurdistan and there is no evidence that it has arranged any significant attacks ... against the authorities or its opponents ... I accept this does not mean they have no presence, but it is hard to believe that they would target the appellant a year after he supposedly saw one of their members and not for the vague reasons provided by the appellant.

15. The sub-ground says that the decision leaves real doubt why the evidence is considered hard to believe or vague, as the appellant explained he was targeted for informing the police, leading to the arrest of the watcher, who was a member of *Ansar Al-Islam*, which in turn led to the appellant receiving a text message a year later, which he interpreted as a threat from that group. The message is stated at Q/A 113 of the appellant's interview and quoted at [34] of the respondent's decision.
16. I accept that the decision is not as specific as it might have been on the sequence of events alleged by the appellant. However, that must be placed in context. He knew the details of his claim. The plain summary in the refusal letter was not disputed. The "informed reader", as founded upon in the grounds, knows what the case is about. The reasoning quoted is clear on why interest from Ansar Al-Islam appeared unlikely. The observation of a vague account arises from the decision as a whole.
17. The Judge was entitled to find delay in the threat, and absence of any further threat, curious and unexplained. At [30] she noted that by his own account his brother had his phone and there had been no further threats on it. She goes on to found at [31] on absence of evidence from the appellant's brother, former girlfriend, or friend in the security services.
18. It is possible to see that the appellant's claim might suggest difficulty in asking his former girlfriend for evidence, but the Judge also noted that he says he knows of her marriage through Facebook, and he did not produce that either. This may not be a powerful part of the reasoning, but it is not shown to be wrong.
19. The appellant's explanation for no evidence from his brother, and absence of the text message, was that he would have to tell his brother why he sought asylum, which in turn would place him and his former girlfriend at risk. The Judge was entitled to reject that explanation. It is self-evidently far-fetched.
20. More powerfully still, the appellant has not countered the Judge's point based on absence of evidence from his friend in the security services, an obvious source of support.

21. No error is suggested in the finding at [33] that failure to claim asylum on arrival further undermined the appellant's credibility.
22. Ground 1 borrows, with limited success, for disagreements on the facts. It does not show that the decision, read fairly, as a whole, and in context, is a less than legally adequate explanation to the appellant of why his narrative has been found not to make sense and not to establish a real risk from *Ansar Al-Islam*.
23. The Judge said at [34]:

Even if I am wrong *re* his claimed fears ... he has failed to show ... a lack of sufficiency of protection on behalf of the authorities.
24. Ground 2 is correct to the extent that the respondent (surprisingly, perhaps) did not raise this issue and that reasons are lacking. However, the finding is in the alternative, and this challenge falls away on failure of ground 1.
25. Ground 3 is based on the appellant's evidence that an agent took away his passport after he arrived in the UK, but as the adverse credibility findings stand, there is no error in the finding at [36] that he "has a current passport". Mr Winter said the evidence was that he also has a copy of his CSID. There is no reason to set aside the Judge's resolution of this issue.
26. The decision of the FtT shall stand.
27. No anonymity direction has been requested or made.

H Macleman

25 November 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is “sent” is that appearing on the covering letter or covering email.