



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-000338
First-tier Tribunal No:
PA/00366/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 11 September 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

SC
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Wood, Legal Representative

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

Heard at Manchester Civil Justice Centre on 10 August 2023

DECISION AND REASONS

1. The Appellant is a national of Cote D'Ivoire, date of birth 25 November 1998, who on 26 November 2019 applied for asylum. The Respondent refused his application in a decision dated 26 April 2022
2. The case was listed before Judge of the First-tier Tribunal Williams (hereinafter referred to as the FTTJ) on 14 October 2022 who on 16 November 2022 dismissed the Appellant's appeal under the Refugee Convention and on human rights grounds.
3. The Appellant sought permission to appeal on 30 November. Permission to appeal was initially refused by First-tier Tribunal Judge Curtis but Upper Tribunal Judge Grubb was satisfied there was an arguable error in law. The permission stated:

“There are in substance two grounds. Both grounds are arguable. First, it is arguable that the judge failed to take into account and/or wrongly stated the evidence concerning the circumstances in which the police “sought” the appellant after the fight (paras 2-7 of the Grounds). Second, it is arguable the judge failed to take into account the country information in reaching his adverse finding (paras 8-11 of the Grounds. For these reasons, permission to appeal is granted.”

4. Mr Wood adopted the grounds of appeal and the grant of permission and submitted there was a material error in law. As regards the first ground the crux of his argument was what the FTTJ wrote in paragraphs [52] and [53] of his decision. The Respondent had accepted the Appellant had been involved in a fight at a transport station where two people were killed and two were injured. The Appellant claimed he was wanted by the police following this incident and Mr Wood argued the FTTJ had failed to consider what exactly the Appellant had claimed in his statement and earlier interview. The Appellant never claimed he was singled out for arrest but that he was one of many whom the authorities sought to arrest. The FTTJ failed to take into account the Appellant’s brother had had to flee the country. The FTTJ erred by assuming it was the Appellant’s claim that he was being targeted by the police.
5. As regards the second ground of appeal Mr Wood submitted the FTTJ failed to have regard to the country evidence which stated that people who had connections to the mayor were not pursued by the authorities.
6. No Rule 24 was filed but Mr McVeety opposed the application. He submitted that the country evidence contradicted the Appellant’s account, but in any event the FTTJ had considered the evidence and made findings that were open to him. The FTTJ considered the Appellant’s account and country evidence and made a finding at paragraph [49] of his decision that the country evidence undermined his claim and that no one was arrested despite weapons being seized. The FTTJ referred to inconsistencies in the account at paragraphs [50] and [51] and at paragraph [52] he considered the plausibility of the Appellant’s account which was clearly his role at the appeal hearing. He was entitled to make a finding on the plausibility of the police finding out his name so quickly given no one was interviewed and no one knew other persons names and it was a brawl. Even if his finding at paragraph [53] amounted to an error it was not material given the other findings made.
7. Mr Wood reiterated that the findings at paragraph [52] were not reasoned out and the finding at paragraph [53] amounted to an error in law.
8. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (512008 /269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

DISCUSSION AND FINDINGS

9. Having heard submissions from both representatives I reserved my decision and now provide my reasons for finding there was no material error in law.
10. The FTTJ noted in paragraph [35] of his decision that the Respondent did not challenge a significant proportion of Appellant's account. In particular, it was not in dispute the Appellant was a member of a transport union called Federation Transporter Chargeurs de Treichville and that there were disputes and clashes between the union and other unions in the area where the Appellant was working, namely Gare Bassam station. It was further accepted that on 2 January 2016, a rival group or union attacked the station and the Appellant's union were involved in an altercation with them. A number of people were injured and two people were killed. The police attended and thereafter the Appellant left the scene.
11. The Appellant claimed that as a result of what had happened he had come to the adverse attention of the authorities. The Respondent disputed the Appellant's claim that people were arrested or that the Appellant would have been identified and singled out for arrest by the authorities due to his limited role in what had happened and the numbers involved. The Respondent had further claimed the Appellant had been inconsistent with regards to when he spoke to his brother on the phone after fleeing.
12. The FTTJ considered the evidence including documentary evidence that the Appellant had submitted. The Appellant relied on an article but the FTTJ outlined concerns about this article as it was not possible to accurately determine its origins or whether it appeared in a reputable newspaper or a publication with limited journalistic quality.
13. However, at paragraph [39] of his decision, the FTTJ acknowledged there were aspects of the article that supported the Appellant's claim including the death of two persons the Appellant had named and the fact there had been a dispute in January 2016 between two unions.
14. The Appellant had placed reliance on this article and the FTTJ considered the article in detail. The FTTJ recorded in his decision that the Appellant had been unable to name the other union involved. The FTTJ concluded the fact that both the rival union and the supposed person of influence were not named provided little substance or corroboration of the Appellant's claim that Mayor Bakongo was the sponsor of the specific rival union, rather than any other union, involved in the fight on 2 January 2016. The FTTJ did not accept the article corroborated all of the Appellant's claims and the FTTJ found it was possible that the other union referred to in the article was not the one that the Appellant's union fought against in January 2016.

15. The FTTJ concluded that even if the article was reliable and even if the first paragraph of the article related to the same fight that the Appellant was involved in, the article suggested that the “forces of law and order that quickly deployed on the scene seized several machetes without making arrests. The situation became calm again as the months went by.” The FTTJ found the article contradicted the Appellant’s own account that the police arrested people who fled from the scene of the fight, and that they later attended at the Appellant’s home area and arrested people.
16. The FTTJ therefore made adverse findings on the consistency and credibility of the Appellant’s account, and I am satisfied that these findings were open to him on the evidence. The FTTJ ultimately placed considerable weight on the article which the Appellant had adduced to support his case and concluded this article did not actually support his appeal. The arguments raised in the ground of appeal do not undermine those core findings. Mr Wood further submitted that the findings in paragraph [53] were erroneous and they materially affected the FTTJ’s reasoning in paragraph [52]. The FTTJ wrote at paragraph [53] of his decision:

“On the Appellant’s own evidence, he has been told that the police attended at his house on one occasion only. There have been no other occasions when the police, authorities or members of any other gang have specifically sought out the Appellant or sought to find his location. This is not indicative of any level of adverse interest in the Appellant at all.”
17. Mr McVeety submitted to me that even if there was an error in what the FTTJ said in this paragraph this did not undermine the FTTJ’s findings in paragraph [52]. The Appellant had claimed in his interview that his brother had also had to flee the country because “people were looking” for the Appellant and this suggested there was more than a passing interest in the Appellant.
18. The FTTJ noted what the brother had claimed in paragraph [14] and [18] of his decision but had also made an adverse finding about the Appellant’s contact with the brother at paragraph [36]. Whilst the FTTJ does not make a specific finding about whether the Appellant’s brother fled, I find the FTTJ is not required to make findings on every issue that is raised. The FTTJ had to consider the claim as a whole and he gave adequate reasons for rejecting the Appellant’s account in his decision so that any failure to make a finding on this specific point is not material.
19. The second ground of appeal that was advanced by Mr Wood was that the FTTJ failed to consider the background evidence before rejecting the Appellant’s account. Mr Wood submitted that the FTTJ’s failure to consider the background evidence vitiated his adverse conclusion on the Appellant’s account of political influence and involvement by the Mayor with the rival union.
20. It is clear from the FTTJ’s decision that the FTTJ was aware of the background evidence. Throughout his decision he referenced evidence that

had been submitted by both parties. The FTTJ considered the Appellant's account of political influence and involvement by the Mayor with the rival union. The FTTJ engaged with the evidence and explained in detail what evidence he accepted and what evidence he rejected and he gave reasons for his findings. The FTTJ's rejection of core aspects of the Appellant's claim coupled with him identifying country evidence which undermined the Appellant's claim has led me to conclude there was no material error on the second ground of appeal.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of an error in law. I uphold the original decision.

Deputy Judge of the Upper Tribunal Alis
Immigration and Asylum Chamber
30 August 2023