

Appeal No. HX22363-2002
LS (Risk-Return-General) Sierra Leone CG [2003] UKIAT 06390

IMMIGRATION APPEAL TRIBUNAL

Date heard: 2 December 2002

Date notified:...04.02.2003.....

Before:-

DR H H STOREY (CHAIRMAN)
MRS S I HEWITT
MR C THURSBY

Between

MR LAMIN MUSTAPHA SHERIFF

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS

1. The appellant, a national of Sierra Leone, has appealed with leave of the Tribunal against a determination of Adjudicator, R F Sanderson, dismissing the appeal against the decision of the Secretary of State refusing to grant leave to enter on asylum grounds. Mr M Symes of RLC (London) appeared for the appellant. Mr D Ekagha appeared for the respondent.

2. The Tribunal has decided to dismiss this appeal.

3. The basis of the appellant's claim was that he had fallen foul of both the RUC rebels (from whom he had escaped after a lengthy abduction during which he was cut with a machete having refused to mutilate a prisoner) and the armed forces on account of having been (correctly) named in a newspaper as the source of information disclosing illegal activities by Navy Officers.

4. The adjudicator disbelieved the appellant's account.

5. The grounds take issue with the adjudicator's adverse credibility findings. They contend that he placed unsustainable weight upon a minor discrepancy concerning whether the appellant's friend was with him in Guinea when he ran into naval officers buying ammunition improperly. They contend he was wrong to place adverse weight on the difference of a day in the appellant's account as to the timing of subsequent visits by soldiers. They complain that the adjudicator gave no reasons for finding the appellant's account of how he departed from Sierra Leone incredible. Given that there was no Home Office Presenting Officer present, the adjudicator should have taken cognisance of the *Surendran* Guidelines and requested the representative to deal with these matters. In relation to Art 3 and Art 8, the grounds argued that the adjudicator failed to take proper account of the medical report of Dr Shehadeh which assessed that to return him to Sierra Leone would deprive him of the chance to overcome his depression. In relation to Art 8, the grounds took further issue with the failure of the adjudicator to recognise that the appellant did have a family relationship in the UK amounting to family life within the meaning of Art 8

6. We find ourselves unable to accept any of the contentions raised in the grounds.

7. As regards the *Surendran* point, the main difficulties with the appellant's account identified by the adjudicator had already been raised in the Secretary of State's refusal letter. In such circumstances, it is not incumbent upon an adjudicator to remind the appellant or his representative that the evidence and submissions need to address these difficulties.

8. As regards the appellant's evidence concerning whether his friend was with him in Guinea, it is true that the appellant was only 18 at the time, that he corrected his account during his asylum interview, that this interview took place shortly after his arrival in the UK and that there was no read-over of his interview. It would also seem that at this time he was suffering from anxiety and depression. However, the issue of who was with him when he was in Guinea was absolutely central to his claim to be in fear of the armed forces. The appellant was very clear when first asked that he had his friend with him at the shop in Guinea when he ran into the Naval Officers. He was asked what his friend was doing there. He gave his friend's name and said he was there as a business partner. He then said that the two of them went from shop to shop. When asked why shortly after he changed his evidence to say he was on his own, the appellant explained that he had simply meant to clarify that his friend was his business partner. The adjudicator did not accept this explanation. Bearing in mind that the appellant had described his friend going round the shops in Guinea with him, we think the adjudicator was fully justified in concluding that the appellant was not giving credible evidence regarding a point quite material to his claim.

9. As for the adjudicator's treatment of the discrepancy in the appellant's evidence regarding the dates when the soldiers came to his house, it is true the difference only amounted to one day. However, the appellant did clearly say at the beginning of his interview that there was a gap of a "few days" between the two visits of the soldiers. Later his account was that the soldiers came on successive days, viz. Saturday and Sunday, and he was particularly adamant that the soldiers had come on a Sunday because "officially everything is closed, and it was surprising they came on a Sunday". He gave that as the reason why he had not gone to the soldier's boss the first time. On the dates he gave elsewhere, however, the last visit would have been on a Monday. Hence, although at first sight the difference of one day was not great, there were discrepancies in his account that had not been satisfactorily explained.

10. In assessing these discrepancies the adjudicator made clear that he bore in mind that the appellant had also failed to satisfactorily explain why he had not left Sierra Leone until some 7 years after his alleged abduction by the rebels. He also made plain that he attached no credence to the appellant's account of being assisted to leave by a stranger without payment.

11. We would agree with Mr Symes that the adjudicator's reliance on these two further factors was inadequately explained. However, considering the evidence for ourselves, we also find these factors to count against the appellant. On his account he had been abducted by the RUC in 1994 and forced to work for them for several years until his escape. Given his insistence that if returned he would still face a real risk of persecution from the rebels, it was difficult to understand why his fear of them had not led him to seek to leave Sierra Leone much earlier than he did.

12. As regards the appellant's account of how he got out of the country, we see nothing unsustainable about the adjudicator's finding that it was not reasonably likely that a stranger would in reality not only help the appellant get out of the country but pay for him. Certainly the appellant failed to demonstrate any particular reason why the stranger should have acted so altruistically.

13. In considering this appeal it is impossible for us not to notice other unsatisfactory features of the appellant's evidence. Although not relied upon by the adjudicator, we see them as further reinforcing our own conclusion that the adjudicator's rejection of the credibility of the appellant's account was entirely proper. Like the Secretary of State, we do not consider it plausible that the appellant would have put his life in danger by allowing a journalist to publish his name and address in an article about the Navy Officers. The appellant has nowhere satisfactorily explained why he would have done this. Like the Secretary of State we also consider that his ability to leave Sierra Leone using his own ID card was a further indication that he did not in reality have a real fear of the authorities identifying him.

14. Mr Symes urged us to approach the discrepancies in the appellant's account in the light of the medical evidence showing him to suffer from depression and post-traumatic stress disorder. However, Dr Shehadeh's report does not state that the appellant's psychological difficulties were such as would make it likely he would be unable to give a reasonably accurate account of his experiences in Sierra Leone. We do not consider that the appellant's psychological difficulties establish that to remove him would breach either his Article 3 or Article 8 rights.

15. Insofar as Dr Shehadeh's report casts light on the situation of the appellant upon return, we accept that it establishes he would return as someone with psychological difficulties, but this report falls far short of establishing that these would cause him serious harm or significant detriment.

16. In relation to his Article 8 rights, we would agree with Mr Symes that the adjudicator was wrong to find that no aspect of the appellant's family life was located in the UK. The adjudicator had accepted that he had been "adopted by a family of a distant relative and has become part of the family." In factual terms, therefore, he had family ties in the UK. However, the adjudicator went on to assume that the appellant had a private and family life which had been the subject of interference, but found this interference proportionate. Given the fact that the appellant still had a father and brother back in Sierra Leone, had only been in the UK since October 2001, had known from the outset that his immigration status in the UK was precarious and that he was now an adult, we consider the adjudicator's conclusion in this regard was entirely sustainable.

17. There is one further matter that requires specific comment. Mr Symes very properly drew our attention to the difficulties currently facing Sierra Leone returnees, many of whom face the prospect of life in IDP camps in sub-standard conditions. He cited the case of *Owen* which, although a case dealing with internal relocation, highlighted the UNHCR –endorsed evidence showing that IDP camps are over-stretched and conditions sub-standard. Mr Symes also highlighted evidence relating to the fragility of the current peace process.

18. Having considered the objective country materials, we have concluded that it is not necessary for us to consider the issue of whether return to live in IDP camps gives rise to a real risk of serious harm, although in a recent case *Sumah* [2202] UKIAT the Tribunal did accept that there was a real risk of a violation of Art 8 in the case of a woman who because of her previous experiences would be vulnerable to rape and prostitution.

19. It is not necessary in this case because, on the appellant's own evidence, he had a father and brother who still lived in Freetown. Accordingly, upon return it was reasonably likely he would be able to secure accommodation and family support without the need to go into the IDP camp process.

20. Even though we would accept the peace process remains somewhat volatile, the objective country materials demonstrate that there is in general no longer a significant risk upon return of persons being targeted for persecution or treatment contrary to their human rights by either the government forces or the RUF rebels.

21. For the above reasons this appeal is dismissed.

**DR H H STOREY
VICE-PRESIDENT**