

Heard at **FIELD HOUSE**
On 6th January 2003

IMMIGRATION APPEAL TRIBUNAL

Date Determination notified
19/03/2003

Before:

Mr. D. J. Parkes (Chairman)

Mr. R. G. Care

BETWEEN

**THE SECRETARY OF STATE
FOR THE HOME DEPARTMENT**

Appellant

- and -

MR. SULAIMAN BAH

Respondent

DETERMINATION AND REASONS

1. The Secretary of State appeals against the determination of an Adjudicator, Mrs. P. H. Drummond-Farrall, promulgated on 8th August 2002, allowing the appeal of Mr. Bah, a citizen of Sierra Leone, against directions made by the Secretary of State on 14th March 2002 for his removal from the United Kingdom as an illegal entrant.
2. The Secretary of State was represented before us by Senior Presenting Officer, Mr. J. McGirr and the Respondent, Mr. Bah, by Mr. Shaji Revindran of The Refugee Legal Centre.
3. When called to give evidence before the Adjudicator the Respondent adopted the contents of his written statement. He was not cross examined on behalf of the Secretary of State and in those circumstances there was clearly no challenge to his credibility. The parties based their submissions upon the objective evidence. That seems to us to place the Tribunal in as good a position to consider the merits of this appeal as was the Adjudicator at first instance.

Appeal Number: HX 19764-02
SB (Risk-Freetown) Sierra Leone CG [2002] UKIAT 07323

4. The Respondent, who came to the United Kingdom on 6th February 2002 and claimed asylum two days later, was born in Freetown in Sierra Leone on 14th February 1984 and lived there until 1997. He was then, at the age of 13 years abducted by the rebels of the Revolutionary United Front and forced to join them. His father has since been killed. He has a sister who was captured by the rebels in 1998 and he does not know where she is. He has another sister whom he last saw in 1997 at the house of his mother and he does not know her whereabouts. He last saw his mother in the village of Baidu which is her home village in 1997 and knows nothing more of her.
5. The armed forces Revolutionary Council took over government on the 25th May 1997 in a coup and called upon the R.U.F. to join them. There was widespread use of torture and ill-treatment and many civilians were killed or injured in the fighting but a Nigerian led West African Peacekeeping Force based in Liberia, ECOMOG intervened and in mid February 1998 liberated Freetown and went on to secure most major towns and roads in the country. On 10th March of that year President Kabbah returned to the country and announced a new broad based government.
6. The Respondent did not make it with those of the R.U.F. who went to Freetown, he got no further than Wellington where former school friends saw the Appellant with the rebels and he attributes that recognition to the burning down of the family home. The Respondent's family had two houses one in Wellington and the other in Calab town and his father died when the Calab town house was burned in February 1998. The rebels of the R.U.F. were forced to retire into the bush.
7. In July 1998 the R.U.F. rebel leader Foday Sankoh returned to Sierra Leone from detention in Nigeria three months later he was sentenced to death for treason. He had been seen as willing to sign a peace accord, however, and those of the faction of the R.U.F. in which was the Respondent ran to the border with Liberia where the Respondent went to a refugee camp to register but was recognized by people from Kailahun and almost beaten to death. He was taken to hospital in Monrovia.
8. In Sierra Leone on 6th January 1999 rebels entered parts of Freetown but a few days later ECOMOG troops launched an offensive and they had to retreat to the east. By 31st January ECOMOG had retaken all of Freetown. On February 2nd President Kabbah announced his plan to build a new army and national militia. On May 18th a ceasefire agreement was signed by the government of Sierra Leone and the R.U.F. The Lome Peace Agreement was signed on 7th July of that year. In November the United Nations began employing peacekeeping troops and in January 2000 ECOMOG began to

withdraw its own forces. In February 2000 the United Nations Security Council agreed to increase its peacekeeping force from 6,000 to 11,100. In November 2000 the Lome Peace Accord was revisited, a ceasefire agreement was signed again between the government and the R.U.F. a task force of 500 British Royal marines arrived in Freetown to re-enforce British troops who were already training the Sierra Leonean military. In February 2001 Parliament approved the Truth and Reconciliation Commission Bill and the R.U.F. set up a political council to explore ways of advancing Sierra Leones stalled peace process. Matters progressed until in January 2002 a disarmament process was completed and the following month the registration of voters was also completed. It was at about that time that the Respondent arrived in the United Kingdom.

9. Whilst the Appellant was at the refugee camp he had been captured by Liberian rebels and constrained to carry goods, guns and ammunition for the “rebel movement for the reconstruction of Liberia”. This went on until the 4th September 2001 and the Respondent was used as an intermediary because he could speak Fullah and assist in their negotiations with the traders who came to buy diamonds. The United Nations had banned the Liberians from that trade. That brought the Respondent on 4th September 2001 to Zozo but whilst the diamond transaction was going on the troops of Charles Taylor attacked the rebels in Zozo and the Respondent had to run with some of the Guineans back to Kailahun which he used as a route to go to Guinea. While at Kailahun he met people who were antagonistic towards him because he had been involved in some of the treatment accorded to them by the R.U.F. The Respondent also met former members of the A.F.R.C. whom he and other members of the R.U.F. had at one time been ordered to torture. The Respondent had nothing to identify him and was not identified as a Sierra Leonean rebel and managed to enter Guinea with the nationals of that country where he stayed at Conakry until February 2002 and managed to obtain assistance in travelling on a plane to the United Kingdom.
10. The findings of the Adjudicator, if we can call them that at all, are so brief that we consider it appropriate to set them out in full. They are to be found at paragraph 9 of her determination and read as follows:

In determining this matter I have considered all the evidence both documentary and oral in the light of the submissions both oral and documentary on behalf of the Appellant. The Appellant claims that he was a member of the R.U.F. as a child soldier and was abducted, fighting with them against the government forces and certainly the background material supports this. It supports the Appellant suffered mental and physical abuse in Sierra Leone, inhuman and degrading treatment. Background evidence does

indeed point that the C.D.F, summarily executing and abusing suspected R.U.F. supporters, particularly from the populace towards former R.U.F. fighters.

11. We reproduce those last few lines as they appear.
12. The Adjudicator expressed her conclusion as follows:

My finding is that the Appellant has been persecuted in Sierra Leone and has a well founded fear of persecution now and in the future should he return there. I also find there are substantial grounds for believing that he is at real risk of serious harm should he return to Sierra Leone.

Upon that basis she allowed the appeal.

13. Mr. Revindran suggests that we ought to uphold the determination of the Adjudicator. We should consider the level of risk for this Respondent who was only 13 years old when abducted and that is relevant in the light of paragraph 7 of the Adjudicator's determination where she records the view taken by the Secretary of State in the refusal letter that in Sierra Leone circumstances have now changed. Even when the Respondent was in Wellington there were people from Freetown who were aware of his involvement with the R.U.F. That knowledge puts the Respondent at particular risk. The primary risk, however, he maintains, is from the pro-government militia the civil defence force. Although, as mentioned in paragraph 5.55 of the C.I.P.U. report the United Nations reported that the disarmament of all militia and rebel groups had been achieved in January 2002 that does not mean that such groups no longer have influence within the community and it is likely that all groups have retained caches of weapons. Just because the C.D.F. is no longer identified as C.D.F. it does not mean that it is no longer active.
14. We were referred to a letter dated 20th May 2002 from the U.N.H.C.R. to a representative of the Refugee Legal Centre urging States to take a cautious approach to enforced returns to Sierra Leone because the R.U.F. has failed on two previous occasions to follow through with its commitments to peace and it may take time for the new position to filter down to the rank and file. That letter, however, is of particular force where it mentions the heartland of the R.U.F. in the Eastern region rather than Freetown. More significantly, however, it was pointed out to us by Mr. McGirr that the letter in question is headed "Re: U.N.H.C.R. position of returning **single female** to Sierra Leone".
15. In a report from U.N. OCHA but which is said not necessarily to reflect the views of the United Nations there appears the reminder that resentment still runs high because the R.U.F. can hardly expect

sympathy when it is possible to see child amputees walking around without hands. It has to be accepted, however, that the situation in Freetown is relatively stable.

16. Mr. Revindran sought to persuade us that if we considered that the determination could not stand then as credibility was not called into question and the Adjudicator had not dealt with the question of internal flight and there were no credibility issues to create difficulty in regard to delay we ought to remit it, if at all, back to the same Adjudicator.
17. Mr. McGirr suggested that the appeal ought to be remitted to another Adjudicator because Mrs. Drummond-Farrall had not addressed the question of internal flight nor that of sufficiency of protection. The Respondent had been particularly involved because of his linguistic skills and there was an absence of any findings about that and there were no findings about the protective role of the United Nations force. In the grounds of appeal an analogy was drawn with the decision in Dyli [200] Imm. A.R. 652. That case provides support for the view that when a force such as KFOR in Kosovo is providing protection under the auspices of the United Nations then that is to be treated in similar manner to protection from the State itself. We do not consider that the situation in Sierra Leone is on all fours with that in Kosovo. The force is assisting the Sierra Leonee authorities and to draw an analogy with Dyli does not seem to us to be apt.
18. We do not consider that this is a case of internal relocation at all. The Respondent would be returned to Freetown which is where he was born and the city which was his home. It seems to us that the first ground of appeal has been made out that the Adjudicator's finding that the Respondent was at risk from the civil defence force as a suspected R.U.F. supporter is unsound. That seems to us to be out of accord with the objective evidence to which we have made reference.
19. The third ground of appeal also seems to us to be made out that the Respondent did not in fact flee or find it necessary to flee from Sierra Leone itself but the circumstances which had taken him from the R.U.F. into Liberia and then Guinea had led to his problems.
20. Upon the objective evidence we are clearly of the view that it was made out before the Adjudicator that there was no real risk, in view of the more recent changes which have taken place in Sierra Leone, for the Respondent to be returned to Freetown. That is his home city, it is a place where there is no real present risk of persecution or where he would be treated contrary to Article 3 of the Human Rights Convention. It has not been shown to us that such a view would be mistaken. So far as the population in Freetown is concerned what exists there is the usual situation after a state of civil war but which does not create problems which reach the level of severity necessary to establish a breach of Article 3.

21. Remittal is not in our view the appropriate course. The facts have been established, they come from the Respondent, credibility is not an issue, the objective evidence was before us, both parties have addressed us upon that objective evidence. Our conclusion is that the Secretary of State has made out his case, the appeal is allowed, and the directions of the Secretary of State restored.

D. J. Parkes
Acting Vice-President