

IMMIGRATION APPEAL TRIBUNAL

Appeal No: 18157
HX/79378/96

Date heard: 09/04/1999
Date notified: 24/05/1999

Before:

Mrs J Chatwani (Chair)

Mr G J Brown JP

Miss S S Ramsumair JP

ALFRED NUAMAH

Appellant

The Secretary of State for the Home Department
Respondents

Determination and Reasons

The appellant, a citizen of Ghana, appeals against the decision of a special adjudicator (Mr. M. Neuberger) dismissing his appeal against the decision of the Secretary of State to make a deportation order against him by virtue of Section 3(5)(a) of the Immigration Act 1971. The appellant claimed asylum. Before us the appellant appeared in person; he was content to present his own case. Mr. A. Betts appeared for the respondent.

The background facts of this case may be summarised as follows. The appellant arrived in the United Kingdom on 11 July 1990 and was granted leave to enter as a visitor for 6 months. He subsequently overstayed and was served with an intention to deport notice on 30 April 1996. On 12 July 1996 he applied for asylum and was interviewed in connection with this application on 23 July 1996. His application was refused for the reasons stated in the Secretary of State's letter dated 19 August 1996.

The basis of the appellant's claim was that since his arrival in the United Kingdom he had been writing articles in the West Africa Magazine criticising the Ghanaian government and its policies. He claimed that if he were to return to Ghana he would be harassed, detained and persecuted because of his political views and because he had written those articles. The Secretary of State did not accept that the Ghanaian government would hold the articles, that the appellant had written, against him in the current political climate and he was not prepared to accept that the appellant would be persecuted because of those articles.

Furthermore, the Secretary of State noted that the Constitution of Ghana guaranteed freedom of speech even to those who were opposed to the current regime, that there was also a guaranteed freedom of assembly and the right to take part in demonstrations and on

the appellant's own admission he had never been politically active in Ghana nor had he been harassed, detained or persecuted by the authorities. The Secretary of State noted that the appellant had managed to have his passport re-issued by the Ghanaian authorities in London, which would not have been the case if the authorities had any interest in him.

At the hearing before the adjudicator the appellant was represented by the Refugee Legal Centre. The appellant told the adjudicator that since coming to this country he had also become involved with the Morris Cerullo World Evangelism Movement which organises religious crusades and the preaching of their beliefs. He said that if he was returned to Ghana he would continue to propagate the Evangelist ideas in which he believed, even if this would put him in danger.

In his determination the adjudicator set out the background to the case, the appellant's evidence and the submissions made by the representatives of both parties. The adjudicator considered that the appellant had applied for asylum solely to try and remain in this country for a longer period. He did not believe that were the appellant to be returned to Ghana at the present time that he would have anything whatsoever to fear from the authorities. The adjudicator concluded his determination as follows:

"The Appellant claims to have written several articles and letters in the West African magazine but only a few of such letters have been produced to me and I cannot see that the contents thereof should cause the Appellant any concern or fears from the authorities. As I mentioned at the hearing, it is inconceivable that on his return to Ghana he would be arrested for having written those letters and there is nothing in the report lodged which lead me to believe that he runs the risk of detention or any form of persecution were he to return at this point in time. Furthermore, I cannot agree with Mr Bild in his contention that the Appellant has a well-founded fear of persecution for a Convention reason at this point in time because on his return to Ghana he would not be free to express his critical views of the Government. Having carefully read the reports submitted, I am satisfied that it is only in very rare instances that journalists suffer any recriminations for what they write and I cannot accept that if the Appellant writes responsible articles and letters, even if they do criticise the Government, that he will suffer any recriminations. Finally, I also note that despite claiming to have been involved with an Evangelical movement, whilst in the United Kingdom, the Appellant has produced no evidence whatsoever to support this involvement. I therefore find that he lacks all credibility that his application has been made solely in an attempt to prolong his stay in the United Kingdom, and that he has failed to demonstrate a well-founded fear of persecution for a Convention reason to the necessary standard. Accordingly the appeal against the decision to claim asylum, and the appeal against the decision to make Deportation Order are both dismissed."

Lengthy grounds together with documentary evidence were submitted by the appellant in support of his application for leave to appeal to the Tribunal. Prior to the hearing of the appeal the appellant had forwarded further documentary evidence.

In his submissions to the Tribunal the appellant agreed that he had overstayed his leave and that he had applied for asylum after he had been in this country for about 6 years. He

said that if he were to return to Ghana he would be persecuted because of the letters and articles he had written since his arrival in the United Kingdom. He relied on the documentary evidence submitted by him and said that the situation in Ghana was not as safe as suggested by the Secretary of State or as stated in the US State Department Reports.

Mr. Betts acknowledged the appellant's involvement with the Evangelical Movement, but argued that his asylum claim could not succeed. He stated that the appellant had never been politically active in Ghana, nor had he been harassed or persecuted by the Ghanaian authorities. Moreover, the objective evidence did not support the appellant's assertion that he would be persecuted on his return to Ghana. He drew our attention to the various reports on the file and submitted that there was nothing that the appellant had done either in Ghana or in the United Kingdom of such a nature that he would be of any interest to the Ghanaian authorities. He argued that viewed against the objective evidence the appellant's Evangelical involvement would also not lead to persecution.

Mr. Betts added that the appellant had a restricted right of appeal against the decision to make a deportation order. He asked the Tribunal to dismiss the appeal.

We have very carefully reviewed all the evidence in this matter, including the further evidence submitted by the appellant. We accept that the appellant has been involved with the Evangelical Movement in the United Kingdom and that he writes articles in some publications.

By his own admission the appellant was not politically active when he was in Ghana and was never harassed, detained or persecuted by the authorities. The basis of his claim for asylum was that his activities since his arrival in the United Kingdom gave rise to a well-founded fear of persecution if he were returned to Ghana. We have read his letters and articles, but in our view they are not such that they would attract any adverse attention of the authorities in Ghana. On the facts of this case, and in the light of the objective evidence before us, we do not believe that the appellant is, or would in future be, of any adverse interest to the authorities simply because of his activities in this country.

We note that the appellant had managed to have his passport issued by the Ghanaian authorities in London. We do not believe that a genuine asylum seeker would seek to re-avail himself of his country's protection if he genuinely fears persecution there. Furthermore, we note that the appellant did not apply for asylum for about 6 years since his arrival in the United Kingdom. In our view, this considerable delay in his application for asylum casts serious doubt upon the genuineness of his claim.

Having considered the evidence as a whole in the light of the standard of proof set out in Sivakumaran [1988] Imm AR 147, we conclude that the appellant has failed to demonstrate that he will be persecuted for a Convention reason on his return to Ghana. Insofar as his appeal against the decision to make a deportation order is concerned, we note that the appellant's rights of appeal were restricted by the Immigration Act 1988.

The appellant conceded that he had overstayed his leave. In these circumstances his appeal cannot succeed.

The appeal is dismissed.

J CHATWANI VICE PRESIDENT

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