

**THE HIGH COURT
JUDICIAL REVIEW**

[2021] IEHC 30

RECORD NO.: 2019/961JR

**IN THE MATTER OF SECTION 5 OF THE ILLEGAL IMMIGRANTS (TRAFFICKING) ACT,
2000 (AS AMENDED)**

BETWEEN:-

MS

APPLICANT

-AND-

**THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL AND THE MINISTER FOR
JUSTICE**

RESPONDENTS

JUDGMENT of Ms Justice Tara Burns delivered on the 15th December 2020.

General

1. The Applicant is an Albanian national who arrived in the State on 3 April 2017 and thereupon applied for International Protection. The basis for his application was that his father owed a gambling debt and the Applicant was being threatened by a criminal gang to pay it back. His application was refused by an International Protection Officer on 16 April 2019. He appealed to the First Respondent on 10 May 2019 who affirmed the decision of the International Protection Officer on the 5 November 2019, having conducted an oral hearing in the matter.

The Protection Claim

2. In evidence before the First Respondent, the Applicant alleged that his father had borrowed money in 2000 to 2002 for gambling. He said that his father started to receive threats regarding this debt arising from which his father had tried to hang himself and had divorced from the Applicant's mother. It was asserted that the father had not told the Applicant about the debt because he suffered significant brain injuries and mental health problems arising from his suicide attempt. The Applicant only became aware of the debt when his mother told him in 2014/2015. The Applicant did not know how much money was owed by his father or to whom it was owed.
3. He asserted that in November 2016, when he was in college, he was approached by a man with a gun who demanded that he pay his father's debt. He did not go to the police because he knew that this person might have a connection to the police. He was phoned and threatened about two to three weeks later. Over the following four months, he noticed a car following him on two to three occasions. He received three to four further phone calls relating to this debt. He left Albania on 28 March 2017. He stated that he considered Albania to be a corrupt country and that he feared for his life. The Applicant stated that he didn't leave Albania immediately because he has a younger brother and sister that he had to care for in light of his father's illness. He opined that these demands were not made of him earlier because it was only now that he could work and earn money, although he was still studying for his Master's degree at the time when the threats commenced. When asked by the First Respondent, the Applicant did not know how much the debt was but knew that it "was a lot". The man making the threat to him did not say how much the debt was; they just wanted him to pay some money.

Grounds of Challenge to Decision of First Respondent

4. The Applicant seeks an Order of Certiorari quashing the decision of the First Respondent on the grounds that the First Respondent erred (i) by incorrectly determining the case on a single issue, namely that the Applicant did not know how much the debt was; or in the alternative (ii) if the First Respondent was correct to determine the case on this single issue, it reached a determination which was irrational and unreasonable in the circumstances.

Was the Case determined on a single issue and if so, was the First Respondent incorrect to adopt this strategy.

With respect to the Applicant being unaware of the amount of his father's debt, the First Respondent stated the following at paragraphs 4.3 – 4.6 of its decision:-

- "4.3 *The Tribunal considers that in any claim where it is asserted that a demand was made to pay money, the most basic of details required is how much money is required. The Appellant's claim is that the assailant demanded an unspecified sum to pay off an unspecified debt. He claims that he knows the debt is a lot. In assessing whether this is a sufficiently detailed account, the Tribunal has to give allowances for cultural differences between Ireland and Albania. The Tribunal is also conscious not to seek rational motives in irrational actors. Finally, the Tribunal must avoid stereotypes as to what a criminal would demand of their victim. However, the Tribunal is not satisfied that, even allowing for those three factors, that a demand for an unspecified sum of money is a plausible, coherent or detailed basis for a claim for international protection. In coming to that conclusion, the Tribunal has regard to the level of education that the Appellant has and his background information.*
- 4.4 *This issue goes to the very core of his claim and the Tribunal cannot overlook this when assessing the rest of his claim. Thus, when he was asked by the Presenting Officer about how he and his father could afford for him to attend college...for 4.5/5 years, but that neither of them would have been chased for the debt during his undergraduate degree, the Tribunal could accept that this was plausible if a coherent narrative was provided in relation to how much money was owed. However, in the absence of same, his claim that he could pay the €700 reduced tuition and living expense stands in stark counterpoint to the vagueness of the money demanded of him. Further, while there is a logic to his explanation that they left him alone during his undergraduate phase, but then went after him when he could work, this again is undermined by the absence of key details about how much money is owed. The Tribunal cannot rationally assess the plausibility of his claim or his explanation for the issues of doubt raised, when the Tribunal is lacking the most basic information about the claim.*
- 4.5 *A further problem that the Tribunal encounters is in assessing the claim that his father and other family members are still present in Albania. In relation to them, he claims that they are safe because his father has no money, his brother is only 12/13 and in Albania no one threatens women. The Tribunal does not consider that*

this explanation is consistent with the nature of the Appellant's claim i.e. that he was extorted at gun point by a dangerous individual and suggests a level of consideration or discretion on the part of the criminal that, even allowing for cultural differences between the State and Albania, are not considered to be plausible. The Appellant's assumption that this person would have connections to the police because Albania is a corrupt country is also vague and is speculative.

4.6 *Having regard to the foregoing, the Tribunal considers that his entire claim is fundamentally undermined by the vagueness of the core element of the claim, namely that he was extorted for an unspecified sum of money. That core insufficiency of detail demonstrates how vague and insubstantial the rest of his claim is. The Tribunal can accept the validity of the documents that he has provided de bene esse, but while they support his claim that his father has bipolar and was divorced etc., they are not probative of the material elements of his International Protection claim i.e that he was extorted due to his father's debt. Ultimately, the Tribunal must assess his claim on the balance of probabilities i.e. his claim is more likely than not. In this case, the Tribunal is not satisfied that he has met that threshold."*

5. The Applicant's claim was not determined on a single issue. There were in fact two issues which quite properly were of particular significance for the First Respondent: the fact that the Applicant did not know the amount of the debt and the fact that he said a specified sum had not been requested from him. Indeed, it would appear that the latter issue was quite correctly of particular significance to the First Respondent as it commented that a demand for an unspecified sum caused difficulty for the Applicant from the perspective of claiming a necessity for international protection.
6. However, the First Respondent also considered a number of other aspects of the Applicant's claim, as is clear from the paragraphs quoted above. It considered the issues of: how the Applicant's father could afford to send him to college; why was the family not pursued for the debt when the family could afford to send the Applicant to college; why was the Applicant only pursued for the debt after all the years which had passed since it had been incurred; how come the family remaining in Albania were safe from these demands; and the connection between the person demanding money and the police force. However, with respect of each of these issues, bar the corruption issue, the First Respondent indicated that it could not fully assess the significance of each without knowledge of the amount of the debt and the amount demanded. That does not mean that the First Respondent determined the Applicant's claim on the basis of a single issue, it means that the First Respondent was unable to properly assess the significance of these other matters without knowledge of the amount owed and amount demanded. This was a conclusion which was entirely open for the First Respondent to make.
7. With regard to the First Respondent referring to the Applicant's education, this was a relevant consideration to take account of having regard the international protection claim being based on a demand for an unspecified sum of money. Contrary to the Applicant's

submissions, his education was not referred to with respect to his lack of knowledge regarding the amount of the debt.

8. The First Respondent did consider the documentation submitted by the Applicant in relation to his father's illness and the fact that he was divorced but determined that these documents were not probative of his international claim, which was a determination open to the First Respondent.
9. With respect to the corruption allegation made by the Applicant, the First Respondent's decision on that assertion, based on the evidence before it, was also open to it to make.
10. I am therefore refusing the Applicant the relief sought and making an order for the Respondents' costs against the Applicant to be adjudicated upon in default of agreement.