



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: AA/00705/2013

THE IMMIGRATION ACTS

**Heard at Glasgow
on 8 July 2013**

**Date sent
On 12 July 2013**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

QING YANG LI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mrs F Farrell, of Peter G Farrell, Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

- 1) The respondent refused the appellant's asylum claim for reasons explained in a letter dated 17 January 2013.
- 2) First-tier Tribunal Judge Mozolowski dismissed the appellant's appeal by determination dated 5 March 2013. The appellant was found, for several good reasons, not to be a credible or reliable witness.
- 3) The appellant claimed that while in the UK he had written blogs critical of the Chinese authorities; that the Chinese authorities removed these blogs from the internet; and that through the use of his Chinese identification number in order to post the blogs, he could be identified as the author on return to China.

- 4) It is common ground that the Chinese authorities treat critical blog writers harshly, imposing heavy penalties.
- 5) The substance of the appellant's ground of appeal to the Upper Tribunal is as follows:

At paragraph 34, the First-tier Tribunal Judge stated:

"I do not find it logical for the appellant to produce a text of a blog and also produce a docket, apparently from the Chinese authorities, saying that the blog has been removed because of its content when the source evidence is from the whole screen shot. It may be that that translation of the docket is on a separate screen shot but that is not shown. To my mind it is also not obvious what the web addresses are. I am therefore not satisfied that the screen shots are pointing to the Chinese blogosphere. The only evidence to confirm that the screen shots are as claimed and were posted in the Chinese blogosphere comes from the appellant himself."

The documents in the appellant's bundle do show the web address. It is also clear from the appellant's evidence that his blogs were separate articles which he then published on his blog ... the evidence lodged clearly shows firstly the blog itself then the screen after it has been deleted by the Chinese authorities. The judge misinterpreted the evidence and erred in law ...

- 6) In response to a suggestion in the grant of permission, the appellant produced certified translations for the Upper Tribunal of what purport to be his critical blogs, with notifications that his account has been suspended and the documents will be "passed to the law department".
- 7) Mrs Farrell said that the judge misdirected herself regarding the nature of the internet evidence. The judge erred by finding that there was evidence of persecution of bloggers, but not of those who blogged from abroad. However, it was obvious that a blogger from abroad whose materials had been deleted and who could be identified would face consequences on return, and that these would reach the threshold of persecution. Mrs Farrell referred to a report by Freedom House, "Freedom on the Net 2012: China", dated 24 September 2012. This includes evidence of the Chinese authorities' elaborate control of the internet. At page 3 there is a reference to the major microblogging service Sina Yeibo which had 300 million users, 27 million of whom were active daily, and a monitoring system to prevent circulation of politically sensitive content. There are instances of suppression of controversial materials. This is the service the appellant used.
- 8) Mrs Farrell submitted that the determination of the First-tier Tribunal should be reversed.
- 9) Mr Mullen said that the appellant had a history which more than justified the adverse credibility conclusions made against him, and he was the only real source of the suggestion that he could be identified from anything he posted on the internet. He has been in the UK since 2007, entering as a student, but appeared never to have attended college. He made an asylum claim in 2012 in a false name. The judge at paragraph 36 was not satisfied that the

appellant had shown that he did blog in his own identity from the UK. That finding was not directly challenged, and did not disclose any error. It was easy to produce materials which appeared as if they might have been on the internet. Such items were readily open to manipulation. They were rightly not given credit, when they came from such a dubious source.

- 10) Mrs Farrell in reply referred to extract evidence from the respondent's COIR (Country of Origin Information Report) which showed that bloggers were persecuted. She maintained that the appellant had provided in total 36 pages of his internet blogs. Despite his past conduct the deletion of these blogs by the Chinese authorities established his *sur place* claim.
- 11) I reserved my determination.
- 12) Mr Mullen correctly pointed to the judge's key finding at paragraph 36. The appellant failed to prove that he posted blogs on Chinese websites using his identification number so as to be identifiable by the Chinese authorities on return. The judge said that she would have required much greater proof of such a claim from an appellant who was otherwise in no way credible. Even recalling the low standard of proof, there is no error of law therein.
- 13) It does not require specialist knowledge to observe that it is easy to copy, paste, type and print from the internet to give a desired impression. There was no discernible chain of evidence linking the appellant's authorship of anti-authority blogs, the adverse reaction of the authorities, and his personal identifiability on return.
- 14) The determination of the First-tier Tribunal has not been shown to involve the making of any error on a point of law, such as to require it to be set aside. That determination shall stand.
- 15) No order for anonymity has been requested or made.



9 July 2013
Judge of the Upper Tribunal