



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00031/2015

THE IMMIGRATION ACTS

Heard at Glasgow
on 7 December 2015

Determination issued
on 6 January 2016

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

A TIAN LI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: no appearance

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of China, born on 3 November 1991. His immigration and criminal history is accurately summarised in the respondent's decision to deport him dated 20 March 2015.
2. First-tier Tribunal Judge Clough dismissed his appeal for reasons set out in her decision promulgated on 6 July 2015.

3. On 7 August 2015 First-tier Tribunal Judge Cox refused permission to appeal to the Upper Tribunal, on the view that the adverse credibility findings were more than sufficient to justify dismissal of the appeal.
4. The appellant renewed his application for permission in the Upper Tribunal, which happened to come before me. On 18 September 2015 I granted permission for the following reasons:

“The renewed grounds at pp.1-9, ¶1-7, search minutely for error on the facts. It is a marginal question whether they might contain enough to undermine the determination as a whole.

At p.9, ¶8, the grounds take a point which was not in the previous grounds. A sentence at ¶27 of the determination is said to imply that the standard of a real risk is higher than the balance of probabilities. That might be a slip of the pen, coming from an experienced judge on the most celebrated feature of the asylum jurisdiction. However, it adds enough to warrant a grant of permission.”
5. In a Rule 24 response dated 8 October 2015 the respondent submits as follows:
 3. ... The judge correctly self-directed herself as to the standard of proof at paragraph 12. This self-direction is correctly applied both to past events and future events.
 4. When the determination is read as a whole the adverse credibility findings are clear and well-reasoned ... the slight confusion at paragraph 27 is only reasonably construable as a slip of the pen ... any other interpretation would be irrational.
 5. The other grounds amount to disagreement with clear and reasoned findings.
 6. It is not accepted that a material error is identified. All that is required is that the determination should be subject to correction by the judge.”
6. The address which the appellant provided to the First-tier Tribunal shows him as in immigration detention. He was at some later date released on bail. He has not notified the First-tier Tribunal or the Upper Tribunal of an up to date address. Notice of hearing was issued to him in accordance with the information on file.
7. By letter dated 7 December 2015 the appellant’s representatives withdrew from acting. There was no appearance by him or on his behalf at the time fixed for the hearing. Mr Matthews advised that he ceased reporting to the respondent in accordance with conditions around 11 weeks ago, and has been listed (not for the first time) as an absconder. In those circumstances, it was appropriate to proceed with the hearing in his absence.
8. Mr Matthews’ submissions were in accordance with the Rule 24 response.
9. The appellant’s case was always a weak one. Despite the valiant search for error in the first 9 pages of the grounds of appeal, I am satisfied that in substance, and taking the determination as a whole, they amount to no more than disagreement with adverse credibility conclusions reached for legally adequate reasons.

10. At paragraph 27 the judge said that the appellant "... had not proved even on the balance of probabilities, let alone a real risk, that he is and would be identified as a supporter of the pro Tibetan independence movement ...". As identified in the grounds, that implied that a real risk is a higher standard than the balance of probabilities, which would be a legal error. However, this is a highly experienced judge; the lower standard of proof is one of the most celebrated features of this jurisdiction; and her determination should be read fairly and as a whole, including the correct self-direction on the standard of proof at paragraph 12. Bearing in mind also that the case was a weak one, and the appellant's preference to abscond rather than to pursue it any further, I am satisfied that the error was immaterial.
11. The determination of the First-tier Tribunal shall stand.
12. No anonymity direction has been requested or made.

A handwritten signature in cursive script, reading "Hugh Macleman". The signature is written in black ink on a white background.

Upper Tribunal Judge Macleman

11 December 2015