



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

Appeal Number: PA/00112/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 6 November 2019**

**Decision & Reasons Promulgated  
On 4 December 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**S B  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Christie

For the Respondent: Ms Isherwood, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant was born in 2003 and is a male citizen of Albania. He arrived in the United Kingdom in 2018 as an unaccompanied minor. By a decision dated 20 December 2018, the Secretary of State refused his application for international protection. The appellant appealed the First-tier Tribunal which, in a decision promulgated on 17 July 2019, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant claimed that he was the target in a blood feud and also that he faced a real risk of degrading treatment at the hands of his father. The Secretary of State had accepted that the appellant had been beaten by his

father when drunk. In my opinion, the judge has given adequate reasons for rejecting the appellant's claim to be the subject to a blood feud. Indeed, the grounds of appeal are silent as to that aspect of his claim. Instead, the grounds of appeal to the Upper Tribunal focus on the abuse which the appellant has suffered at the hands of his father. In her analysis of that aspect of the claim, I find that the judge has fallen into legal error.

3. First, the judge's findings as to the appellant's claimed present fear of his father and the treatment which he may have received at his father's hands are not clear. As I have noted above, the Secretary of State has accepted that the appellant had been beaten by his father. The decision letter of the Secretary of State [114] states that steps will not be taken to trace the appellant's family in Albania because doing so would be contrary to the Secretary of State's duty under section 55 of the Borders, Citizenship and Immigration Act 2009 because the appellant's father had been 'physically abusive.' The judge, however, [63] appears to cast doubt upon the appellant's claim that he was scared of his father on account of the treatment which he has received from him in the past. The judge doubted that only the appellant's mother had paid for his journey made travel arrangements to the United Kingdom, the implication in the judge's finding being that his father had assisted him also. The clear inference from the judge's analysis is that the appellant's claim to have suffered ill treatment at the hands of his father is not reliable. That would seem to go behind the Secretary of State's acknowledgement that the abuse had taken place.
4. Secondly, the judge reaches no firm conclusion as regards the appellant's claim that corporal punishment administered by his father amounted to Article 3 ECHR degrading treatment. The judge discusses the cases of *DMD v Romania* [23022/13] and *Bouyid v Belgium* [2006] EHRR 32 but makes no firm finding in the present appeal that the treatment which the appellant has received in the past falls within Article 3 ECHR. Instead, the judge moves on in her analysis to consider sufficiency of protection, a consideration which is also flawed by legal error. At [73], having discussed the background material quoted from *Horvath* [2000] UKHL 37, the judge observes that the Albanian authorities 'are taking steps to address' the issue of violence towards children; she makes no firm finding as to whether the Albanian state would provide the appellant with adequate or reasonably effective protection against ill-treatment by his father. Moreover, at [73], the judge finds that the appellant would, 'being older and more experienced', be aware of the protections that are available in the agencies to whom he could turn. That observation appears to ignore the fact that the appellant is still a minor. Strangely, at [74], the judge finds that there is 'no reason that he cannot re-join his family' including, presumably, his father. If the judge did not find that the appellant feared his father or, indeed, that he had not received ill-treatment of his father's hands in the past, then she should have made firm findings supported by reasons. Her failure to do so vitiates her analysis. In the circumstances, I set aside the decision.

**Notice of Decision**

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand, save for the findings regarding the appellant's claim to be a target in blood feud. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing.

Signed

Date 22 November 2019

Upper Tribunal Judge Lane

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.