**IN THE UPPER TRIBUNAL**
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: **UI-2024-004618**
**UI-2024-004619**

First-tier Tribunal No: PA/50015/2024
PA/50017/2024

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**
On 14th of January 2025

**Before**

**UPPER TRIBUNAL JUDGE KHAN**
**DEPUTY UPPER TRIBUNAL JUDGE ANZANI**

**Between**

**G.P**
**P.L**
**(ANONYMITY ORDER MADE)**

Appellants

**-and-**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Ms Edu-Gyamfi, Solicitor (Gromyko Amedu Solicitors)
For the Respondent: Mr Tufan, Senior Home Office Presenting Officer

**Heard at Field House on 16 December 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellants are granted anonymity. No-one shall publish or reveal any information, including the names or addresses of the appellants, likely to lead members of the public to identify the appellants. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

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1. The first appellant (who will be referred to in this decision as "the appellant") is a national of Bolivia born on 2 July 1980. He is the father of the second appellant, born on 24 April 2010.

2. The appellant and his daughter appealed the respondent's decision dated 22 December 2023 to refuse their protection claim (asylum application) made on 14 May 2020. The basis of the appellant's asylum claim was that he is at risk on return to Bolivia because of his political opinion as a supporter of a section of the MAS party. His daughter claimed as his dependent. The appellant's wife, RP, is also a national of Bolivia, and had also claimed asylum with the appellant, but she is not a party to this appeal.

3. The respondent's decision attracted a right of appeal under section 82(1)(a) of the Nationality, Immigration and Asylum Act 2002.

*First-tier Tribunal appeal*

4. First-tier Tribunal Judge Manuell ('the judge') dismissed the appellant's appeal in a decision dated 04 July 2024. The appellant and respondent were both represented at the hearing held at Taylor House. The appellant attended the hearing and gave evidence. The judge summarised the evidence given at [7]-[15]. The judge also summarised the submissions made by both representatives at [16]-[17].

5. The judge then proceeded to consider and make findings in relation to various aspects of the evidence. He began by noting that the Respondent accepted the Appellant's identity and membership of the MAS Party in Bolivia. It was not however accepted that the Appellant's fears of return were objectively well founded. The judge began his reasoning by stating that he ultimately agreed with this conclusion, and at [19]-[26] provided his reasoning for same.

6. The judge concluded that the appellant's evidence had several serious flaws, that it lacked detail and indications of any genuinely held political conviction. The judge noted that the appellant had only been a member of the MAS Party for two years prior to experiencing problems and did not claim to have financially supported the party. He showed no personal connection with significant MAS politicians and the judge noted that there was no supporting letter from the party or photos of his political involvement, despite such evidence being easy to obtain. The absence of such proof was said to detract from the appellant's case, with the judge citing TK (Burundi) [2009] EWCA Civ 40.

7. The appellant's claim of being targeted by Mr. Luis Camancho was also found by the judge to lack credibility, with no supporting news reports having been provided. The judge also noted that the appellant's wife had not given evidence at the hearing and had not appealed the refusal of her parallel asylum claim. He referred to her having signed a witness statement on behalf of their daughter (LP) but noted that this simply repeated the appellant's claim. He concluded that this evidence was untested and attracted little weight.

8. The judge also found that the appellant's timeline was questionable—he participated in a November 2019 protest despite already planning to leave Bolivia with a UK visa obtained in October 2019, supposedly due to MAS Party threats. He provided no credible explanation for why he or his family were in such danger or why he needed help getting a visa despite financial stability and sufficiently

strong local links to support a holiday visa application. Additionally, country background materials did not support the appellant's fear of Camancho, a right-wing politician accused of corruption but not linked to violence or threats against MAS Party members. The country background materials confirmed that Camancho is in prison, awaiting trial.

9. The appellant's credibility was also found to be weakened by his failure to seek asylum immediately upon arrival in the UK, despite claiming to be politically active and in danger. His lack of political activity in the United Kingdom, despite his freedom to do so, indicated a lack of real political commitment and further undermined his case.

10. The judge acknowledged that the country background information showed factional dissent within the MAS Party, and there was some evidence to show this had resulted in violence between MAS Party members, however this had been limited and sporadic. The judge noted that the appellant had not sought help from the Bolivian authorities despite claiming to have political connections and he had not explored moving within Bolivia if under threat in Santa Cruz as an opposition stronghold.

11. The appellant’s asylum claim was therefore refused and his claim under Articles 2 and 3 ECHR was said to fail for the same reasons.

12. In relation to the appellant’s Article 8 claim, the judge concluded that the appellant’s private life claim was weak. He provided no details of any connections formed in the UK or evidence of unavailable medical treatment in Bolivia. His daughter's best interests were to remain with her parents, and she had spent most of her life in Bolivia, where she also had extended family. No proof was offered that her medical needs couldn't be met in Bolivia, and the family were unlikely to face significant obstacles reintegrating there.

*Upper Tribunal appeal*

13. The appellant applied for permission to appeal to the Upper Tribunal. Permission to appeal was initially refused by First-tier Tribunal Judge Austin in a decision dated 23 September 2024. The appellant renewed his application to the Upper Tribunal, advancing the following five grounds:

*(i)* *The FTT erred in refusing permission on ground 1 of the original grounds*

In particular, the judge at paragraph 18 of the decision failed to give reasons for findings on material matters and ‘failed to relate applicant’s evidence to country evidence on Bolivia’

*(ii)* *The FTT erred in refusing permission on ground 2 of the original grounds*

In particular, the judge erred at paragraph 19 by finding that there were further steps the appellant could and should have taken to adduce evidence which would corroborate his account.

*(iii)* *The FTT erred in refusing permission on grounds 3 and 5 of the original grounds and made a material misdirection of law by failing to apply the lower standard of proof*

In particular, the judge erred at paragraphs 19 and 21 by being over influenced by his own views of what was plausible and his own perception of reasonability.

*(iv) The FTT erred in refusing permission on ground 6*

In particular, the judge erred at paragraph 23 of the decision by failing to apply the lower standard of proof.

*(v) The FTT erred in refusing permission on ground 7*

In particular, the judge erred in his handling of the medical evidence presented by failing to make findings on the Bolivian medical report which related to injuries said to have been sustained during a demonstration in Bolivia, and in addressing the medical evidence generally, only after rejecting the appellant’s account as incredible.

14. Permission was granted by Upper Tribunal Judge Ruddick, but only in relation to Grounds Two and Three, and on Ground Five, only with regard to the medical evidence concerning the first appellant. Judge Ruddick refused permission on Grounds One and Four.

15. During the course of her submissions before us, Ms Edu-Gyamfi attempted to reargue Ground One of the renewal grounds. We pointed out that permission had been refused by the Upper Tribunal on this ground and a direction to that effect had been made in the permission decision, pursuant to Rule 22(2)(b) of the Tribunal Procedure (Upper Tribunal) Rules 2008. As such, an application would need to be made to amend, suspend or set aside that direction under rule 5(2) of the 2008 Rules. No such application had been made prior to today’s hearing. Ms Edu-Gyamfi proceeded to make such an application today.

16. We invited submissions from Ms Edu-Gyamfi and Mr Tufan on this discrete issue. Having heard from both parties we retired to consider the application and determined not to grant Ms Edu-Gyamfi’s application. Our reasons were twofold. Firstly, we noted the lateness of the application. We had regard to the overriding objective as per rule 2(1) of the 2008 Rules, and particularly to the need to deal with cases fairly and justly to both parties. The respondent had not been put on notice of any application to set aside or amend the direction in the grant of permission, and Mr Tufan confirmed that he had only attended prepared to argue Grounds Two, Three and Five.

17. Secondly, we considered the underlying merit of Ground One as pleaded. We noted that permission on Ground One had already been refused on two separate occasions, firstly by Judge Austin on 23 September 2024, and again by Judge Ruddick on 15 October 2024. The ground was presented on two bases. First, it repeated the argument made in the application to the First-tier Tribunal, which claimed that the judge failed to provide reasons for concluding in paragraph [18] that the first appellant's fear of persecution was unfounded. This argument was ill-conceived as on any logical reading of paragraph [18], this was clearly intended as an introductory paragraph with detailed reasons provided later. Second, it was argued that the judge overlooked undisputed and verifiable evidence, but the ground was entirely silent on what that evidence was.

18. Having refused Ms Edu-Gyamfi's application, we then invited submissions from both representatives on Grounds Two and Three, and on Ground Five, with regard to the medical evidence concerning the first appellant. We reserved our decision at the conclusion of the hearing.

19. We have considered the First-tier Tribunal decision, the documentation that was before the First-tier Tribunal, the grounds of appeal to the FTT and renewal grounds, and the submissions made at the hearing, before coming to a decision in this appeal. It is not necessary to summarise the oral submissions because they are a matter of record, but we will refer to any relevant arguments in our decision.

## Decision and reasons

20. Having considered the arguments made by the parties and the evidence before the Upper Tribunal, we conclude that none of the three grounds disclose a material error of law in the First-tier Tribunal decision that would justify setting the decision aside.

21. It is clear from the First-tier Tribunal decision that the judge had all the documents filed by both parties before him. He outlined the relevant legal framework. The judge then summarised the case put by the appellant in some detail [7]-[15]. He also considered the skeleton argument and submissions made on behalf of the appellant at the hearing [17]. There is nothing to suggest that the judge did not consider all of the evidence before him when coming to his decision.

22. In Ground Two the appellant argues that the judge erred in requiring corroboration. Ms Edu-Gyamfi referred to the authority of *MAH (Egypt) v Secretary of State for the Home Department* [2023] EWCA Civ 216 wherein the Court of Appeal confirmed that there is no requirement for an appellant to adduce corroborative evidence. In [19] of the determination the judge refers to what he describes as serious problems in the Appellant's evidence. He concludes, having had the benefit of hearing the Appellant give evidence and be cross-examined by the respondent, that the appellant's description of his political activities was vague and amounted to little. The judge referred to an absence of any letter of support from anyone in the MAS Party and noted that there were no photographs of the Appellant engaging in any political activities. He concluded that, as the MAS Party remains in power in Bolivia, such evidence would not have been difficult to obtain and photographs can be taken with ease on mobile phones.

23. Lord Justice Singh at [86] of MAH made clear that the absence of corroborative evidence can, depending on the circumstances, be of some evidential value: if, for example, it could reasonably have been obtained and there is no good reason for not obtaining it, that may be a matter to which the tribunal can give appropriate weight. We find that it was open to the judge to find, on the circumstances before him, that the evidence alluded to in [19] could reasonably have been obtained for the reasons he gave and that there was no good reason for not obtaining it. We find that it was therefore open to the judge to conclude that the absence of such evidence detracted from the appellant's case. There is no misapplication of the burden and standard of proof, as the appellant alleges.

24. In the renewed grounds the appellant also contends as part of Ground Two that judge overlooked material evidence in reaching adverse credibility findings. The

renewed grounds failed to identify what material evidence was overlooked, and Ms Edu-Gyamfi also failed to identify this in her submission to us. Having considered the determination and the evidence before the judge, we can identify no such oversight.

25. In Ground Three the appellant contends that the judge erred in his approach to the assessment of the appellant's credibility by making adverse credibility inferences based on plausibility and by recharacterizing the nature of risk based on the judge's own perceptions of reasonability. Ms Edu-Gyamfi referred specifically to the finding at [19] that the appellant showed little sign of being sufficiently articulate and well informed to have assumed any kind of leadership role in MAS. She also criticised the judge's findings at [21] that it was implausible that the appellant chose to attend a demonstration even after deciding to leave the country, and that he would not have needed the help of his party to obtain a visit visa because it appeared that he should have qualified for that visa based on his employment and the timing of his trip. Lastly, she criticises the judge's finding at [23], wherein he states that factional dissent within political parties is hardly unusual in politics "anywhere", particularly when one party has been in power for an extended period.

26. Having considered the judge's determination as a whole, we find that he did not err in his approach to the appellant's credibility as claimed. His finding at [19] as to the appellant having showed little sign of being sufficiently articulate and well informed to have assumed any kind of leadership role in MAS has to be viewed in the context of the judge's other findings outlined in [19], that having heard the appellant give evidence his own description of his activities amounted to little. The judge also referred to the appellant's evidence lacking any significant degree of detail and it being unsupported by any evidence.

27. We also find that the judge did not fall into error in querying the appellant's decision to attend a demonstration in November 2019, where violence was likely, when he had already decided to leave Bolivia owing to the risk he says he faced from one of the MAS Party factions. It was clearly open to the judge to question the appellant's evidence in this regard. The appellant's challenge to this finding amounts to little more than mere disagreement.

28. Whilst we query the relevance of the appellant's need for help in obtaining a visit visa given his employment and links to Bolivia, we are not persuaded that this finding alone undermines the judge's overall assessment of credibility. The Supreme Court in *HA (Iraq) v SSHD* [2022] UKSC 22 reiterated that judicial caution and restraint is required when considering whether to set aside a decision of a specialist tribunal. In particular, judges of the specialist tribunal are best placed to make factual findings. As was confirmed in *AH (Sudan) v SSHD* [2007] UKHL 49 and *KM v SSHD* [2021] EWCA Civ 693, appellate courts should not rush to find misdirections simply because they might have reached a different conclusion on the facts or expressed themselves differently. As stated by Lord Donaldson MR in Piggott Bros v Jackson [1992] ICR 85 'It does not matter whether, with whatever degree of certainty, the appellate court considers that it would have reached a different conclusion. What matters is whether the decision under appeal was a permissible option.'

29. In relation to the judge's finding at [23], we do not consider that the judge was there relying on his personal view about the nature of factional disputes in rejecting the appellant's claim. On our reading of the determination we consider

that the judge was merely conducting an assessment of the country background information. For these reasons, we find that Ground Three fails to establish any material errors of law.

30. In Ground 5 the appellant argues that the judge erred in his handling of the medical evidence presented by failing to make findings on the Bolivian medical report, which had been offered to corroborate his account of past persecution in Bolivia. It was also argued in the grounds of appeal, but not expanded upon further during the hearing, that the judge addressed the medical evidence generally, only after rejecting the appellant’s account as incredible.

31. In submissions, Ms Edu-Gyamfi confirmed that the only medical evidence relating to the appellant before the judge was to be found at pages 56 and 139 of the bundle. The document at page 139 is a translated medical report from Dr Carlos Andrés Pérez, who confirms that the appellant underwent a general examination on 16 October 2019. Dr Perez confirms that there was evidence of lesions on the appellant’s right foot and left hand and ‘head with traumatic injuries due to blows’. The report made no mention of how these injuries were sustained and there was no assessment of whether the injuries were consistent with the account given by the appellant. The document at page 56 was a report from the appellant’s GP surgery in London which confirmed that the appellant required further investigations to ‘exclude acute cause of worsening headache’. There was no mention in this GP report of any past persecution in Bolivia.

32. Ms Edu-Gyamfi argued that the medical evidence was only considered by the judge in the context of the appellant’s human rights claim, ie. whether treatment would be available in Bolivia. She argued that the medical evidence ought to have been considered in the context of the protection claim because the evidence ‘showed he had been the victim of persecution’. Having considered this evidence with care, we are unable to find that it showed the appellant had been the victim of persecution in Bolivia as claimed. At its height, the report from Dr Pérez suggested the appellant had sustained blows to his head, but was entirely silent on how these injuries were sustained. We agree with Mr Tufan that the report from Dr Pérez is not compliant with the Istanbul Protocol and does not establish past persecution.

33. We do not consider that there is any merit in the contention that the judge only addressed the medical evidence generally, and only after rejecting the appellant’s account as incredible. The judge does not dispute what is recorded in either medical report. Although we accept that he did not address the reports in the context of the appellant’s protection claim, the evidence presented showed little more than the appellant having sustained ‘injuries due to blows’ in or around October 2019 and him suffering headaches in the UK. It is trite that a judge is not required to make findings on each and every piece of evidence although it is necessary to consider the most pertinent pieces of evidence produced in relation to the key issues in dispute. Given the nature and limitations of the medical evidence at pages 56 and 139 of the bundle, we do not consider that the failure to address the reports in the context of the appellant’s protection claim amounts to a material error of law in this instance.

34. For the reasons given above, the appeal fails. We conclude that the First-tier Tribunal decision did not involve the making of any material errors of law and therefore there is no basis to disturb the conclusions.

**Notice of Decision**

35. The decision of the First-tier Tribunal did not involve the making of any material error of law and therefore stands.

36. The decision shall stand.

**S. Anzani**
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

06 January 2025