



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

Appeal Number: DA/00085/2013

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 3 July 2013**

**Determination  
promulgated  
On 4 July 2013**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**N T N**

**and**

Appellant

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

Respondent

For the Appellant: Ms V Pearson, of Brown & Co., Solicitors  
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

- 1) The appellant appeals against a determination by a panel of the First-tier Tribunal comprising Judge Handley and Ms Singer, promulgated on 14 March 2013, dismissing her appeal against deportation.
- 2) The grant of permission summarises the grounds of appeal as (1) adopting the respondent's reasoning without indicating the panel's reasoning; (2) wrongly concluding that the existence of a particular social group was not disclosed; (3) failing to assess risk on return, including absence of consideration of an expert report; and (4) failing properly to consider the medical evidence. While ground 1 was thought to be of no substance, the other grounds were arguable, particularly as the panel appeared to have overlooked the expert report entirely, and to have considered the medical report only in relation to availability of treatment in Vietnam and not in other relevant respects.

- 3) The Presenting Officer correctly conceded that the panel erred, and that its decision could not stand.
- 4) The appellant's inventory in the First-tier Tribunal includes a report by Professor Mark Sidel of the University of Wisconsin-Madison. It is relied upon extensively in the appellant's written submissions, the first item in the inventory. The determination does not mention the report or the submissions based upon it. That error alone requires the determination to be set aside.
- 5) The inventory includes psychological reports by Dr Tagg, also extensively relied upon in the submissions. The determination does not deal adequately with those reports.
- 6) Ms Pearson indicated that as the appellant's relevant personal history is (almost entirely) common ground, it was not anticipated that any further oral evidence would be taken from her at the next hearing.
- 7) If the appellant does propose to offer any further evidence, notice of that should be given not less than 14 days in advance of the further hearing, with an explanation of why an interpreter might be required.
- 8) The determination of the First-tier Tribunal is **set aside** in its entirety. No findings of the First-tier Tribunal are to stand. Under section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 the nature and extent of judicial fact-finding necessary for the decision to be remade is such that it is appropriate to remit the case to the First-tier Tribunal. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge Handley or Ms Singer.
- 9) No anonymity order has been requested or made, but in view of the nature of the case this determination has been anonymised.



4 July 2013  
Judge of the Upper Tribunal