



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

Appeal Number: AA/04191/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 27 May 2014**

**Determination Sent
On 9 July 2014**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

and

G O

Appellant

Respondent

Representation:

For the Appellant: Mr A McVeet, Senior Home Office Presenting Officer
For the Respondent: Ms L Mair, instructed by Howells Solicitors LLP

DETERMINATION AND REASONS

1. This is a case involving an appeal that was allowed by the First-tier Judge on Article 3 grounds on the basis essentially of the strong medical evidence that supported her claim.
2. Her claim was found to be entirely credible by the judge and he allowed the appeal on the basis that her return to Nigeria would reach the high

threshold of inhuman treatment prohibited by Article 3 of the ECHR. So he accepted the ill-treatment that she said she had experienced and he accepted the medical diagnosis, the confirmation of what she said in the form of scarring and the diagnosis of complex PTSD.

3. What he did not do though was to make clear findings on the Refugee Convention and humanitarian protection aspects of her claim. Having said that, the appeal succeeded under Article 3 and he went on to say that he was not satisfied that she had shown that she was a refugee or shown that she was entitled to a grant of humanitarian protection but did not set out the factual basis for those conclusions.
4. She had a claim that clearly deserved and required to be considered in respect of international protection and there was a further expert report in relation specifically I think to mental health treatment issues but clearly the claim was one of ill-treatment in the past and if that was accepted as it clearly was then the judge had to go on to consider whether that showed her to be at risk as a refugee or person requiring international protection and any issues of relocation and state protection would require to be considered.
5. Mr McVeet helpfully and I think wisely essentially agreed with Ms Mair's submission that the determination is flawed in the way set out above and it seems to me, therefore that the parties are content with this and that the matter should go back to the same judge essentially to complete his determination. He has made clear findings which are unchallenged on the evidence before him and those will of course be preserved as will the Article 3 finding but he will need to complete his determination to assess the claim in the context of the Refugee Convention and humanitarian protection. I can see no reason why this cannot be done on the papers. The appellant has already given evidence and that evidence has been accepted. It is a question of placing that evidence in the context of the tests for international protection, so the matter will be remitted to Judge Upson for him to complete his determination.

Signed

Date

Upper Tribunal Judge Allen