



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

Appeal Number: AA/05899/2014

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 9 December 2014**

**Determination**

**Promulgated**

**On 12 December 2014**

**Before**

**UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**M T**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: Ms Patel, Counsel, instructed by Halliday Reeves solicitors.

For the Respondent: Mr Diwncyz, HOPO

**DETERMINATION AND REASONS**

1. This appeal came before Judge Fisher on 17 September 2014 at North Shields. He dismissed the appellant's appeal on asylum grounds, not accepting that the appellant was a homosexual as claimed.
2. In doing so he relied on the fact that the appellant disclosed his claim late, after the reasons for refusal letter had been issued in relation to the claim of risk on political grounds.

3. It was argued in the grounds that the judge did not take into account the appellant's explanation for the late disclosure, and that he did not properly assess the background evidence.
4. Mr Diwncyz accepted that the determination could not stand, and that the proper course was a remittal to the First-tier Tribunal
5. The case of A v Staatssecretaris van Veiligheid en Justitie [2014] EUECJ C-148/13, published after the judge had made his decision, makes it clear that it cannot be concluded that the declared sexuality lacks credibility simply because, due to reticence in disclosing intimate aspects of personal life, it was not declared at the outset.
6. It is also right to say that objective evidence in the appellant's bundle relating to the attitude of the present Egyptian authorities to homosexuality was not referred to in the determination, and, if the credibility findings are unsafe, further consideration to that evidence must be given.
7. The decision of Judge Fisher is set aside. The case should therefore be set down before a judge other than Judge Fisher at North Shields, with all issues at large.

Signed

Date **11 December 2014**

Judge of the Upper Tribunal