



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/44491/2013**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

**Determination
Promulgated**

On 21 October 2014

On 28 October 2014

Before

Deputy Upper Tribunal Judge MANUELL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MN

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr T Wilding, Home Office Presenting Officer

For the Respondent: Mr S Harding, Counsel
(instructed by Howe & Co)

DETERMINATION AND REASONS

Introduction

1. The Appellant (the Secretary of State) appealed with permission granted by First-tier Tribunal Judge Page on 2 September 2014 against the determination of First-tier Tribunal Judge Carroll who had allowed the Appellant's appeal against removal on asylum and human rights (Article 3 ECHR) grounds in a determination promulgated on 13 August 2014.
2. The Respondent is a national of Colombia, born on 17 August 1966. It is not necessary to repeat her immigration history which is set out at [2] to [4] of Judge Carroll's determination. In essence the Respondent had made fresh representations to the Secretary of State in 2007 that she would be at risk on return to Colombia because of her sexual orientation. The application was not refused by the Secretary of State until the issue of Removal Directions on 26 September 2013. It is important to note that the Respondent's sexuality was accepted by the Secretary of State.
3. Permission to appeal was granted because it was considered that it was arguable that (a) the judge had not given sufficient reasons for his conclusions that the Appellant would be at real risk on return and (b) the Respondent had been given insufficient opportunity to consider the Appellant's late filed expert evidence.
4. Standard directions were made by the tribunal, indicating that the appeal would be reheard immediately if a material error of law were found. A rule 24 notice opposing the appeal had been filed on the Respondent's behalf.

Submissions - error of law

5. Mr Wilding for the Appellant relied on the grounds of onwards of appeal and the grant of permission to appeal. Candidly and to his credit he accepted that ground (b) (above) was unworthy of pursuit, because no application for an adjournment had been made on the Appellant's behalf at the hearing. Nevertheless it was arguable that the judge's findings and reasoning had been superficial and inadequate, such that the appeal ought to be revisited.

6. It was not necessary for the tribunal to call upon Mr Harding for the Respondent, who had referred to his skeleton argument as submitted at the First-tier Tribunal hearing and the rule 24 notice.
7. The tribunal indicated that it found no material error of law and reserved its determination which now follows.

No material error of law finding

8. The Secretary of State's delay in considering the Respondent's fresh claim was deplorable. There had been ample time in the intervening six years to obtain country information and indeed the Appellant's view of that material was set out in the reasons for refusal letter as the judge noted in his determination. The only issue was real risk on return. The judge set out a summary of the country material placed in evidence at [11] onwards of the determination, which he discussed, noting that the Appellant had been selective in quotation.
9. The judge's treatment of both parties' evidence was sufficient and set out the essence of his findings. . The judge was entitled to give weight to the report of the Respondent's expert and approached that report in a balanced and critical manner. A lengthier survey was not required. The findings which the judge reached were adequately reasoned and open to him
10. The tribunal accordingly finds that there was no material error of law in the determination and there is no basis for interfering with the judge's decision.

DECISION

The making of the previous decision did not involve the making of a material error on a point of law and stands unchanged

Signed

Dated

**Deputy Upper Tribunal Judge Manuell
2014**

21

October

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Appeal