



IAC-FH-CK-V2

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

Appeal Number: AA/02799/2013

THE IMMIGRATION ACTS

Heard at Field House

**Decision &
Promulgated**

Reasons

On 5 March 2015

On 22 June 2015

Before

THE HONOURABLE MR JUSTICE COLLINS

Between

MISS EKI CYNTHIA IDELE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No Appearance

For the Respondent: Mr P Duffy, Home Office Presenting Officer

DECISION AND REASONS

1. In the light of the assistance given to us by Mr Duffy and the production of relevant documentation which regrettably had not been produced before now it is plain that this appeal is going to have to be allowed. We do not need to go into any great detail. Suffice it to say that the appellant's case was that she has been trafficked to this country and she gave an account of what she had suffered in Nigeria and what had led to trafficking.
2. Before the First-tier Judge the issue related to her credibility and it was a decision made a very long time ago now back in April of 2013. Essentially

the Secretary of State had rejected her claim not believing her and the First-tier Tribunal Judge accepted that. One of the important issues obviously was whether her trafficking claim had been accepted by the competent authority and regrettably it seems that full information was not given at material times either to the First-tier or more particularly to the Upper Tier Tribunal. Suffice it to say that the Secretary of State has now accepted and in a letter of 6 December 2013 which has now been produced has indicated that it is accepted that she was trafficked.

3. It seems that that decision was influenced strongly by a psychiatric report which had been obtained and that her mental condition was such as means that what appeared to be incredible might not be incredible. However, it was clear that the whole decision-making process below was based upon the assertion that her account was not credible. In those circumstances, and Mr Duffy has not dissented from this, indeed he suggested it might well be the right thing for this Tribunal to do, rather than keep the appeal in being and remit it to the First-tier Tribunal it would be sensible in all the circumstances for the Secretary of State to reconsider the decision. No doubt the appellant will be able to put in any fresh material that she wishes to put in or is advised to put in by those representing her but in all the circumstances we will therefore allow this appeal.
4. The only matter we would add is that we would indicate that the Tribunal requires from the Secretary of State full information as to why the proper information had not been given to the Tribunal at all material times. It led to the need to go to the Court of Appeal and get an order from the Court of Appeal which effectively overturned the decision of the Upper Tier Tribunal who dismissed the appeal, unaware of the true position in relation to the decision of the competent authority. Accordingly the Secretary of State is directed to provide the Tribunal with a detailed explanation within 14 days of the date of the sending out of this decision.
5. For the reasons given, this appeal is allowed.

Signed

Date 16 June 2015



p.p. Mr Justice Collins