



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

Appeal Number: AA/09889/2014

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 13 April 2015**

**Decision & Reasons  
Promulgated  
On 30 April 2015**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

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

Appellant

**and**

**TD**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr Diwnycz, Senior Home Office Presenting Officer

For the Respondent: Mr Malik, Thompson & Co Solicitors

**DECISION AND REASONS**

1. The respondent, TD, is a citizen of Vietnam. I shall hereafter refer to the respondent as the appellant and the appellant as the respondent (as they appeared respectively before the First-tier Tribunal).
2. The appellant appealed against the decision of the respondent dated 4 November 2014 refusing her application for asylum and making directions

for her removal from the United Kingdom. The appellant appealed against that decision to the First-tier Tribunal (Judge Turnock) which, in a determination promulgated on 15 January 2015, allowed the appeal. The Secretary of State now appeals, with permission, to the Upper Tribunal.

3. The appellant claims that she would be persecuted in Vietnam on account of her political opinion. The appellant had claimed to have attended demonstrations in the United Kingdom and also in Vietnam and had been actively involved in opposition politics from 2012. The appellant claimed that she had been arrested whilst distributing political leaflets in May 2014. She claims to have been ill-treated whilst in detention. However, she claims to have escaped from detention. In December 2014, having entered the United Kingdom, the appellant demonstrated outside the Vietnamese Embassy in London.
4. The grounds of appeal may be summarised briefly as follows. At [79] the judge made the following findings:

It will be evident from the findings of fact made previously that I found certain elements of the appellant's claim to be not credible. I do not accept her claims regarding the manner in which she claimed to have distributed the leaflets nor her account of her detention and escape. However she has produced a summons which is not clearly identified as a counterfeit document. Its authenticity was challenged on the basis that it made no mention of an escape from custody. However if she had been observed delivering leaflets or was reported as having delivered them, then the summons is consistent with the authorities now wishing to interview her. Whilst I found that her description of the way that she delivered the leaflets is not credible that does not mean she did not deliver leaflets nor does it mean that the summons is not genuine. If the summons were 'created' by or on behalf of the appellant for the purpose of supporting a false claim then it surely would have reflected the appellant's claim to having been detained and having escaped.

5. The judge concluded that the summons  

is a document upon which reliance can be placed; that she was politically active in Japan as evidenced by her answers to questions about the Viet Tan Party (although she has greatly exaggerated her activity); that she did come to the attention of the authorities; that she attended a demonstration in the UK and has taken an active part; has posted material on Facebook in respect of which there is a real risk the authorities will become aware of; and accordingly she is at real risk of persecution for her political opinions in the event that she is returned to Vietnam.
6. The grounds challenge the reliance placed by the judge on the summons given that the judge had found "certain elements" of the appellant's claim to have been fabricated. The respondent asserts that the judge failed properly to apply the authority of *Tanveer Ahmed (2002) UKIAT 00439\**.

7. It is unfortunate that [79] is not drafted as clearly as it might have been. However, I am not satisfied that the judge has erred in law such that his determination should be set aside. I say that for the following reasons.
8. This is not a case where an appellant has been found wholly incredible and where the judge has then placed reliance on documentary evidence adduced by that appellant. Rather, the judge has clearly found (although it would have helped if he had stated this expressly) that, whilst parts of the appellant's account have been exaggerated or embellished, the core of her account was true and accurate. Indeed, at [21] the judge reminded himself that "in dealing with the issue of the appellant's credibility I have taken into account and borne in mind that asylum seekers may seek to exaggerate and embellish their case but nevertheless the core of their account may be truthful". It is clear that the judge had that principle in mind when he made his detailed findings of fact and drafted [79]. It is significant that the judge only found "certain elements" of the appellant's claim to be incredible; he did not reject it out of hand. He addressed the summons on the basis that its authenticity had been challenged by the Presenting Officer at the hearing, namely that it contained "no mention of an escape from custody". It was because the judge was dealing with that submission that he made the somewhat curious observation that a false summons would "surely have reflected the appellant's claim to have been detained and having escaped". It is not entirely clear to me why that should be the case but, following the judge's logic, had the summons referred to an escape from custody, which the judge had explicitly rejected, then he would clearly have gone on to find the summons to be unreliable also. The judge has salvaged the determination from the infelicities of [79] by making very clear findings at [80] (as quoted above) that the appellant has been politically active in the United Kingdom and in Vietnam and that her activities are likely to come to the attention of the authorities. In effect, the judge has found that the summons supports those parts of the appellant's account which he found to be true and accurate; that approach is a legitimate one and has not led the judge into inconsistency and error of law as the grounds assert. For that reason, I have dismissed the appeal.

### **NOTICE OF DECISION**

9. This appeal is dismissed.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 28 April 2015