



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

**Appeal Number: AA/08664/2014**

**THE IMMIGRATION ACTS**

**Heard at Manchester Piccadilly  
On 5 April 2016**

**Decision & Reasons Promulgated  
On 12 May 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BIRRELL**

**Between**

**FATOUMATA BAH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr J Nicholson counsel instructed by GMIAU  
For the Respondent: Mr G Harrison Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. In order to avoid confusion, the parties are referred to as they were in the First-tier Tribunal.

3. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge De Haney promulgated on 11 February 2015 which dismissed the Appellant's appeal against the decision of the Respondent to remove the Appellant from the UK following the decision to refuse the Appellant's claim for asylum.

#### Background

4. The Appellant was born on 5 September 1995 and is a national of Guinea.
5. On 25 September 2013 the Appellant who was at that time 18 years old applied for asylum.
6. On 7 October 2014 the Secretary of State refused the Appellant's application. The refusal letter gave a number of reasons:
  - (a) It was not accepted that the Appellants parents had been arrested by the authorities as her account of how she found this out and why it happened was inconsistent.
  - (b) The Appellants late claim for asylum undermined her credibility.

#### The Judge's Decision

7. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge De Haney ("the Judge") dismissed the appeal against the Respondent's decision. The Judge found :
  - (a) The Appellant was not a credible witness as to the core of her account as there were a number of discrepancies and inconsistencies in that account.
  - (b) The Appellants account had changed since her Screening Interview.
  - (c) The photographic evidence produced by the Appellant must pre date her father's imprisonment and therefore it was not credible that she did not know of her parents involvement with the UFDG.
  - (d) The Appellants explanation that she was panicked and nervous in her asylum interview did not explain why she had forgotten the whole basis of her claim given her life experience and her demeanour in the hearing.
  - (e) He found other aspects of her account to be incredible: her claim to be coming to the UK in August 2013 for a 3 month holiday yet she claimed to be starting University in Guinea in October or November 2013; the fact that her father took her passport when returning to Guinea; the fact that her father's friend who she was left with had not attended court to support her claim; the letter from the UFDG in the UK did not provide information about the circumstances of her parents ; that the authorities arrested her parents and informed their neighbours of the reason was not credible.
8. Grounds of appeal were lodged arguing that the Judge had failed to take into account that the Appellant that the Appellant was just 18 at the time of her asylum interview or to make findings as to whether her parents were members or supporters of the UFDG.

9. Permission was refused on 10 March 2015 and the application was renewed and on 8 June 2015 Upper Tribunal Judge Grubb gave permission to appeal.
10. There is a Rule 24 Response dated 15 July 2015 which argued that the Appellant gave discrepant answers in the asylum interview in relation to the core of her claim. The Judge made adverse credibility findings that were open to him.
11. At the hearing I heard submissions from Mr Nicholson on behalf of the Appellant that:
  - (a) The issue was whether the Judge considered all of the evidence in reaching his adverse credibility findings.
  - (b) The determination was very brief.
  - (c) The Judge did not take into account her age in assessing the account she gave.
  - (d) The Judge's approach to the photographic evidence was flawed given that she did not know about the photographs until after her claim was made.
  - (e) Hers was an inherently plausible account.
12. On behalf of the Respondent Mr Harrison submitted that :
  - (a) He relied on the Rule 24 response.
  - (b) The Judge set out a number of reasons why he did not find the Appellant was credible.
  - (c) The Judge gave reasons why he found her mature for her age and why therefore her account of feeling panicked in the interview was not credible.
  - (d) The Appellant was trying to suggest that she was less able than she is.
  - (e) The findings were sustainable.
13. In reply Mr Nicholson on behalf of the Appellant submitted :
  - (a) The Appellants case was that she was not interested in politics and her claim must be assessed against that background.

## **The Law**

14. Errors of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial considerations, reaching irrational conclusions on facts or evaluation or giving legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.
15. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor is it an error of law for an Immigration Judge to fail to deal with every factual issue under argument. Disagreement with an Immigrations Judge's factual conclusions, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law. Unless an Immigration Judge's assessment of proportionality is arguable as being completely wrong, there is no error of law, nor is it an error of law for an Immigration Judge not to have regard to evidence of events arising after his decision or for him to have taken no account of evidence that was not before him. Rationality

is a very high threshold and a conclusion is not irrational just because some alternative explanation has been rejected or can be said to be possible. Nor is it necessary to consider every possible alternative inference consistent with truthfulness because an Immigration judge concludes that the story told is untrue. If a point of evidence of significance has been ignored or misunderstood, that is a failure to take into account a material consideration.

16. In relation to credibility findings I note that in Mibanga v SSHD [2005] EWCA Civ 367 Buxton LJ said this in relation to challenging such findings:

“Where, as in this case, complaint is made of the reasoning of an adjudicator in respect of a question of fact (that is to say credibility), particular care is necessary to ensure that the criticism is as to the fundamental approach of the adjudicator, and does not merely reflect a feeling on the part of the appellate tribunal that it might itself have taken a different view of the matter from that that appealed to the adjudicator.”

### **Finding on Material Error**

17. Having heard those submissions, I reached the conclusion that the Tribunal made no material errors of law.
18. I have considered the argument that the Judge did not take into account the Appellants age when assessing the credibility of her claim for asylum. I am satisfied that the Judge did take it into account quite explicitly in that his decision opens with the statement that at the time of hearing the Appellant was 19. There is no question that he misunderstands the chronology of her account as this is set out in his summary of her evidence at paragraph 11 (i)-(xiv). He also opens his findings by noting that one of her explanations for her inability to answer probing questions was her age at the time the events in issue occurred. The Judge I am satisfied also went on to make an assessment of her maturity in the light of her claim that her age had impacted on her evidence at paragraph 20 of the decision: I am satisfied that in assessing her maturity it was open to him to take into account that the Appellant by her own evidence had travelled on her own abroad including to the USA ‘on her own’ in 2007 and again in 2008 and stayed for 3 months with an aunt. Therefore I am satisfied that the Judge in assessing her account was fully aware of her claims that her age impacted on her claim and the weight he gave to this assertion was a matter for him. Against this clear acknowledgement of the Appellants claim that her account was affected by her age the Judge went on to set out a number of credibility findings detailed at paragraph 7(a)-(e) above and he gave sustainable reasons for the conclusions he reached.
19. Mr Nicholson specifically challenges the Judges finding about the photographs she produced but I am satisfied that it was open to him to conclude that the late production of such evidence, a year after her interview, was a factor that was relevant to the weight he attached to them.
20. I find that the argument that the Judge made no findings as to the claimed involvement of the parents in the UFDG has no merit. The Judge was clear and explicit that he did not find that the Appellant was a credible witness and he rejected her account. Given that her account was underpinned by the claim that her parents

were involved with the UFDG I am satisfied that he clearly did not accept that part of her claim.

21. Mr Nicholson also suggested that the decision was short but I take into account MK (duty to give reasons) Pakistan [2013] UKUT 00641 (IAC), where it was held that (i) It was axiomatic that a determination disclosed clearly the reasons for a tribunal's decision. (ii) If a tribunal found oral evidence to be implausible, incredible or unreliable or a document to be worth no weight whatsoever, it was necessary to say so in the determination and for such findings to be supported by reasons. A bare statement that a witness was not believed or that a document was afforded no weight was unlikely to satisfy the requirement to give reasons. The Judge in this case also set out the caselaw relevant to his determination of the evidence at paragraph 26. I am satisfied that he addressed all of the issues raised in what was in fact a fairly narrow claim and gave sustainable and clear reasons why he rejected the claim.

## **CONCLUSION**

22. **I therefore found that no errors of law have been established and that the Judge's determination should stand.**

## **DECISION**

23. **The appeal is dismissed.**

Signed

Date 9.5.2016

Deputy Upper Tribunal Judge Birrell