



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

Appeal Number: PA/03276/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 8th September 2017**

**Decision & Reasons
Promulgated
27th September 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

**T T X
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Panagiotopoulou, Counsel, instructed by Howe & Co Solicitors

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

An anonymity direction has already been made in respect of this case and it should continue.

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 her or any member of her 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.

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Morron sitting at Taylor House on 3rd May 2017. The Appellant had appealed against the Secretary of State's rejection of her claim for asylum, the salient background being that the Appellant claimed to be a member of the China New Democracy Party.
2. The judge had said at paragraph 49 of his decision that the main issue in the appeal before him was the credibility of the Appellant's evidence relating to her claimed membership of and connections with that party. At paragraph 56 the judge noted and accepted that the Appellant was aged only 16 at the time of her arrival in the United Kingdom.
3. The grounds of appeal, which have been drafted by Ms Panagiotopoulou and who also appears before me today, set out clearly the basis upon which it is said that there was an error of law. I focus in particular on paragraph 6, which deals the Document Verification Report which had been relied upon by the Respondent. It is said at paragraph 6 of the grounds of appeal,

“The judge erred in his assessment of the document verification report relied on by the Respondent in that he failed to have regard to the fact that the police officer working in the Criminal Cases Department had not been shown the documents he was asked to verify. In the alternative, the judge erred in fact in considering that it was the police officer that had a copy before him (see para 41 and para 62 of the determination), when it was actually the Entry Clearance Assistant liaising with him over the phone who had a copy. This argument formed part of the Appellant's submissions relating to the reliability of the document verification report. The importance of this was that the person who actually purports to verify the document (namely the police officer) had not been shown them; he appeared to simply describe over the phone to the Entry Clearance Assistant what a document he referred to as a 'summons certificate' should look like. The judge in paragraph 62 of his determination relies on this mistaken fact to conclude that 'the officer states that he had a copy of the document in front of him and I consider therefore that the most likely explanation for the difference in terminology is linguistic'. As stated above, it was not the police officer who had the copy before him but the Entry Clearance Assistant. It is respectfully submitted that the judge's conclusions are therefore unsustainable.”

4. At the hearing before today, Ms Panagiotopoulou took me to the Respondent's bundle, particularly at E6 and E7, which refers to the document verification report, and, in my judgment, it is quite clear from looking at that that the Respondent's caseworker who sought to seek verification had a telephone conversation with the police authorities and,

in my judgment, it is quite clear that the judge had erred in terms of the factual basis upon which he considered the document verification report. What the judge appears to have been mistaken about is whether or not the police authorities were actually able to look at the summons. In fact, they did not see it so were not able to give a view one way or the other as to whether the document was genuine or not. There are other grounds of appeal as well but, as became clearer during the discussion of the case during submissions, in my judgment, this was an important aspect of the case.

5. Mr Walker in his clear and helpful submissions said that the position was a little confusing in respect of the document verification report. He agreed that in the main there may be checks made over the telephone and it appears to be presumed here that the police officer had a copy of the document being verified. Mr Walker said it was important to consider the judge's decision as a whole. He said it was a finely balanced point in respect of the grounds themselves. He said he would leave his submissions in those brief but succinct and clear terms.
6. Now, having reflected on the matter and having discussed the aspects with the Appellant's Counsel during her submissions it does seem to me that the whole basis of the judge's findings relied upon the document verification report being accurate. Had he concluded that the document verification report was wrong or that it may be wrong it is likely that the judge would have made a different finding. It is quite clear to me that the premise of the document verification report that it had been viewed by the officer concerned was wrong. There was an error of law in the judge's approach.
7. In the circumstances and because this is a protection claim which requires application of the most anxious scrutiny to the case, in my judgment that the error of law was a material error. Consequently, the decision by the judge, which is otherwise detailed and clear, relied upon a mistake of fact. That amounts to an error of law in accordance with the principles enunciated by the Court of Appeal in **E & R v Secretary of State** [2014] EWCA Civ.
8. As a consequence, I conclude that the matter has to be reheard on all issues and the appropriate venue for that hearing is at the First-tier Tribunal. I am told that an interpreter in Mandarin will be required for that hearing.

Notice of Decision

1. The Decision of the First-tier Tribunal is set aside.
2. There shall be a re-hearing at the First-tier Tribunal.

Signed

Date: 8th September 2017

Deputy Upper Tribunal Judge Mahmood