



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

Appeal Number: PA/00862/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 7th September 2018**

**Decision sent to parties on
On 28th September 2018**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**H B
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance or representation

For the Respondent: Mr Nigel Bramble, a Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity

The First-tier Tribunal made an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008: unless the Upper Tribunal or a court directs otherwise, no report of these proceedings or any form of publication thereof shall identify the original appellant, whether directly or indirectly. This order applies to,

amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.

1. The appellant appeals with permission against the decision of the First-tier Tribunal (Judge M A Khan) dismissing his appeal against the respondent's decision to refuse him asylum or humanitarian protection or leave to remain on human rights grounds.
2. The appellant came to the United Kingdom from Morocco, which is his country of nationality, in 2015 with leave to enter as a student which was curtailed to expire on 20 December 2015, as he failed to study. In September 2016 he was encountered and served with form RED.001 and on 10 May 2017 form RED.004 a notice of removal. On 11th May 2017 he was convicted of theft and possession of controlled drugs class B cannabis resin. He had a previous conviction for battery and failing to surrender to custody at the appointed time on 2 March 2017 and on 19 May 2017 he was served with a stage 1 deportation decision letter and claimed asylum on 13th June 2017, by which time he had been in the United Kingdom for just under two years.
3. The appellant claims that he is of homosexual sexual orientation and that this would put him at risk in Morocco. There is a Rule 35 report from the detention centre suggesting that he may have signs of torture in the form of body scarring, but no mention of any mental difficulties.
4. The appellant is no longer legally represented: he is representing himself. The appellant did not attend the hearing in the First-tier Tribunal because he refused to leave the detention centre. He has not attended or arranged representation for the Upper Tribunal appeal hearing, although he was granted bail on 19 June 2018 and therefore was able to attend had he chosen to do so.
5. The grounds of appeal suggest that the judge misapprehended the basis of the appellant's appeal, that his decision lacks anxious scrutiny and that the solicitors, who were instructed 8 days before the hearing, were entitled for that reason to have an adjournment to provide a comprehensive witness statement, a medical report and a country expert report.
6. Those solicitors are no longer acting, but in any event, having accepted instructions to act on the basis of the case as it stood 8 days before the hearing, and apparently having made the application for an adjournment on the day of the hearing without having evidence of seeking to improve their instructions in the ways indicated, it would not have been appropriate or a proper application of the overriding objective for the hearing to be adjourned on that basis.
7. I note that this appeal had previously been heard in the First-tier Tribunal in March 2018 when again the appellant was unrepresented and did not attend the hearing. That decision was appealed and remitted for

rehearing afresh. The appellant had had plenty of time to prepare properly for the second First-tier Tribunal hearing and indeed to attend it and the fact that he chose not to do so, is finally a matter for the appellant and not a ground for adjournment on the day.

8. The First-tier Tribunal's decision sets out why the judge considered the appellant's case was not proved. In particular, at paragraphs [32]-[37] for proper, intelligible and adequate reasons, the First-tier Judge found that the appellant had "simply made up and fabricated his evidence in support of his asylum claim in order to remain in the United Kingdom. I do not find the appellant to be a credible or a consistent witness".
9. The evidence before the judge was such that he was unarguably entitled to conclude that the appellant had not proved his claimed sexual orientation, even to the lower standard applicable in international protection claims, nor had he established that he was at risk by reason of his claimed orientation.
10. This appellant has now failed to attend three hearings of his appeal. I maintain the anonymity order. I conclude that he takes no further interest in this appeal and for of the reasons already given I dismiss the appeal.

DECISION

1. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law.

I do not set aside the previous decision. The decision of the First-tier Tribunal stands.

Signed: [Judith A J C Gleeson](#)
September 2018

Date: 25

Upper Tribunal Judge Gleeson