



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

Appeal Number: PA/03672/2018

**THE IMMIGRATION ACT**

**Heard at Civil Justice Centre  
Manchester  
On 15<sup>th</sup> April 2019**

**Decision & Reasons Promulgated**

**On 18 April 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

**Between**

**Ms Thi [L]  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: No attendance

For the Respondent: Mr Bates, Senior Home Officer Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge A J Parker promulgated on the 10<sup>th</sup> May 2018 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's claims based on asylum, humanitarian protection and Articles 2 and 3 of the ECHR.
2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by Deputy Upper Tribunal Judge McGeachey on 28<sup>th</sup> January 2019. Thus the case appeared

before me to determine whether or not there was a material error of law in the decision.

4. The material part of the grant of leave provides:-

*1 The grounds of appeal state that the judge had aired because he had not considered important evidence: that the appellant was 'exposed' on the Internet on an official webpage and that therefore she would be in danger on return to Vietnam. It is asserted that this is clear from the Home Office's own policy guidance.*

*2 I consider that it is just possible that the grounds of appeal may be arguable*

#### Preliminary Issue

5. The appellant in the past had been represented by Oakmount Law Solicitors. By email dated 12 April 2019 the solicitors stated that they were unable to contact the appellant and that they were without instructions. The solicitors therefore were coming off record.
6. Subsequent to that email the solicitors contacted the Tribunal and stated that they had managed to contact the appellant. The solicitors further stated that the appellant wished to withdraw the appeal. The respondent was also informed.
7. At some time prior to the hearing there was a further email from the representatives indicating that the appellant did not wish to withdraw the appeal but wished to have the appeal adjourned. No reason was given for having the appeal adjourned. It appears that that was considered by the duty judge at Field House and the application was refused.
8. As background to the emails it was accepted by the respondent that the appellant's husband, Mr [DN] date of birth [~] 1988 also a Vietnamese national HO Reference no. [N~], had been granted refugee status in the United Kingdom. On 14 December 2018 the appellant's representatives had written to the respondent, UKVI Family Reunion Team, requesting that the appellant and the child of the family be granted "refugee" status in line with Mr [N].
9. By way of response it had been indicated by the respondent that whilst the family circumstances may be considered resulting in a grant of leave based upon family union, that did not confer on the appellant refugee status in her own right. It was indicated that the appellant could either choose to pursue her appeal or could withdraw the appeal and rely upon family reunion alone. It was clear that the appellant would have to pursue her appeal, if she wanted refugee status in her own right.
10. I note that in the past directions have been given in the First-tier Tribunal for the appellant and her representatives to lodge documents. There had been a failure to comply and to deal with the appeal in accordance with the Procedure Rules.
11. The appellant and her representatives failed to attend the hearing. The application for an adjournment has been refused.

12. I note that the notice of hearing had been served on the solicitors and on the appellant in accordance with the Upper Tribunal Procedure rules. The notice of hearing had been sent to the appellant at the address given as the last address for service. Accordingly I was satisfied that notice of the hearing had been served in accordance with the Tribunal Procedure (Upper Tribunal) Rules 2008. I therefore determined to proceed with the hearing in the absence of the appellant or her representatives.

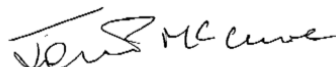
#### Consideration

13. It was for the appellant to attend the Upper Tribunal hearing with or without representatives to pursue her appeal. She has not done so.
14. In essence the grounds of appeal seek to argue that in considering whether the appellant is entitled to asylum the judge has failed to consider the current position of the appellant and the appellant's involvement in demonstrations and political activities in the United Kingdom. It is alleged in so doing that the judge has failed to consider the current policy guidance of the respondent.
15. The appellant had claimed to be part of a pro-life religious group called Bao Ve Sony Gio an Phaolo. The judge had made specific findings about her activities in respect of the group and the inconsistencies in the appellant's account and the background information. The judge has dealt with the activities of the group and the arrest and convictions of individual members in paragraph 20. In paragraphs 18 to 24 the judge has highlighted specific inconsistencies between the appellant's account and background information.
16. The judge in paragraph 38 has considered the current Home Office country policy on Vietnam. The judge has given valid reasons for dismissing the appellant's claims based upon her activities in Vietnam.
17. Thereafter the judge has specifically considered the appellant's activities in the United Kingdom. The judge noted the improving position with regard to human rights and the fact that the Roman Catholic Church would fall to be considered as a registered religious group as identified in the Home Office policy guidance. On the basis of the evidence the judge was not satisfied the appellant would face inhumane or degrading treatment on return was not satisfied that she would be subjected to conduct capable of constituting persecution.
18. Those were findings of fact the judge was entitled to make on the basis of the evidence before him. The judge has fully justified the conclusions reached and was entitled to conclude that the appellant would not be at risk on return. In the circumstances there is no material error of law.

#### **Notice of Decision**

19. I dismiss the appeal on all grounds.

Signed



Deputy Upper Tribunal Judge McClure

Date 17<sup>th</sup> April 2018