



Upper Tribunal  
(Immigration and Asylum Chamber)

PA/04378/2018

THE IMMIGRATION ACTS

Heard at Glasgow  
On 18 July 2019

Decision & Reasons Promulgated  
On 24 July 2019

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**K K**

Appellant

and

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

Respondent

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors  
For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. FtT Judge Clough heard the appellant's appeal on 2 May 2018 and dismissed it by a decision promulgated on 4 September 2018.
2. There is no doubt that a decision should explain such a long delay, but the matter is not mentioned.
3. The grounds of appeal to the UT are delay, and inadequacy of reasoning.
4. The reasons of the FtT are at paragraphs 22 and 23.

5. It is doubtful whether the matters referred to as self-contradictions properly bear that construction.
6. It is not said why it is implausible for someone to realise their sexuality at the age the appellant says he did. I do not think that the matter speaks for itself; and as Mr Martin submitted, the country and cultural background might make that more likely than in a more open society.
7. It was open to the judge to find the account of the appellant's departure implausible, but "wholly implausible" goes rather far. It is not beyond the bounds of all possibility.
8. Mr Whitwell accepted that none of the reasons was very strong, but submitted that taken together they were enough, and that there was nothing to form the necessary nexus between delay and any errors identified.
9. That was a valiant attempt to defend the decision, but it is plainly weak. While concision is usually a virtue, the nexus between unexplained delay and the paucity of explanation in this case rather speaks for itself.
10. The decision of the FtT is set aside. It stands only as a record of what was said at the hearing.
11. The nature of the case is such that it is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for an entirely fresh hearing. The member(s) of the FtT chosen to consider the case are not to include Judge Clough.
12. 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.



18 July 2019  
UT Judge Macleman