



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/09760/2018**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Glasgow
on 8 March 2018**

**Decision & Reasons
Promulgated
on 13 March 2019**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

A G

Respondent

Representation:

For the Appellant: Mr A Govan, Senior Home Office Presenting Officer
For the Respondent: Mr H V McCusker, of McAuley McCarthy & Co, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this decision refers to them as they were in the FtT.
2. The SSHD appeals to the UT against the decision of FtT Judge Lucas, promulgated on 30 October 2018, allowing the appellant's appeal on asylum and on human rights grounds.
3. The case turned on credibility. The complaint of the SSHD is that the judge dealt with this "only by 5 short paragraphs" (page 7 of 8 of the decision), and failed to engage with the reasoning in the respondent's

refusal letter, designed to show “significant discrepancies and inconsistencies” (paragraphs 34 – 63, pages 7 to 16 of 29 of the letter).

4. Concision in decision-making may be considered a virtue. Judges do not have to deal with every line of a party’s case. However, the losing side is entitled to know why its main contentions have been rejected. At first sight of the letter and the decision, there might be something in the SSHD’s complaint.
5. At [49] the decision summarises the corrupt and oppressive nature of the regime in Rwanda. The general background was not disputed, so no more needed to be said.
6. At [50], the FtT recorded that it placed little or no weight on not immediately seeking medical attention in the UK. Again, that is not in dispute.
7. Significant consideration begins at [51], which contains two elements. The FtT says it “had the benefit of seeing the appellant at this hearing”, and formed its own impression, “in so far as any tribunal can objectively assess these matters”, that the appellant was troubled and traumatised. The SSHD does not suggest that goes any further than the FtT was entitled to do.
8. Also at [51], the FtT relies on a psychiatric report and a letter from the Rape Crisis Centre to support its finding that the appellant suffered the trauma she claimed in Rwanda”.
9. The report was from a clinical psychologist of Glasgow Psychological Trauma Service, incorrectly described as a psychiatric report in her inventory of productions. The SSHD makes nothing of this slip, and it is insignificant.
10. It is not disputed that the FtT was entitled to find, based on the appellant’s evidence and the supporting materials, that she had been subject to serious ill-treatment Rwanda.
11. This puts a different perspective on the case from that of the author of the refusal letter, who had no such supporting materials, and who accepted no aspect of the account.
12. At that point, the question for the FtT essentially became whether the trauma was reasonably likely to have been suffered in the context related by the appellant. The grounds do not acknowledge that change of perspective.
13. At [52] the FtT accepted that there might be “some implausible aspects” of the claim, but bore in mind that Rwanda was not a western democracy acting by principles of due process.
14. That gives very short shrift to the refusal letter. However, on reference the letter is a laboured insistence, point by point, that the appellant’s

account is vague, speculative and unclear. Mr Govan, as I understood his submission, acknowledged that the letter made a long series of rather similar points, no single one of which could be identified as so powerful as to be anywhere near to determinative.

15. Based on his rule 24 response, Mr McCusker was ready to offer a detailed refutation, observing that the appellant was criticised for not narrating matters which could not reasonably have been within her knowledge, such as the motives of the authorities; the further outcome of a police enquiry, after her release; or the reason she was asked to help rig an election (although she had reasonably surmised that might have been because she had prior experience of electoral procedure).
16. At [53] the judge accepted evidence that the authorities froze the appellant's bank accounts in Rwanda. Partly the finding was made because that would be an odd thing to fabricate, which is a reasonable observation.
17. It is somewhat mystifying in this paragraph that the judge says he has considered "the evidence from the solicitors in Rwanda", when there was none, and goes on to say it is hardly surprising that they have not supplied a letter or a statement. Unravelling at the hearing, the position is that the appellant said her solicitors in Rwanda obtained and supplied the copy letters from the prosecuting authorities to the bank about freezing accounts (copied and translated in her inventory).
18. Paragraph [53] thus adds two adds two further elements to the reasoning.
19. Paragraph [54] finds that the appellant is educated and bright, consistent with her claimed roles in Rwanda, considerations which add a little, but are hardly above neutral.
20. The appellant's sister gave evidence to the FtT, which broadly, although indirectly, supported her account. There is no reason to think that evidence was not accepted, and perhaps it was, in context of the rest of the decision. A finding should have been expressed.
21. A decision should not be supported by reasons which cannot be found within it, and it makes some slips, as mentioned above. More might usefully have been said about the SSHD's refusal reasons, although they did not demand a refutation in corresponding detail, once the finding of trauma had been made. That said, the decision does explain why the appellant was found credible.
22. Although the grounds initially look strong, on closer examination they fall short of showing that the reasons given in the FtT's decision are less than legally adequate. That decision shall stand.
23. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

11 March 2019
UT Judge Macleman