



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10753/2018

### **THE IMMIGRATION ACTS**

Heard at Manchester  
On 31<sup>st</sup> May 2019

Decision Promulgated Before  
On 01<sup>st</sup> July 2019

#### **Before**

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

#### **Between**

Miss T T D H  
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

#### **Representation:**

For the appellant: Mr Wilford, Counsel, instructed by Qualified Legal Solicitors

For the respondent: Mr Tan, Senior Presenting Officer.

### **DECISION AND REASONS**

#### **Introduction**

1. The appellant is a national of Vietnam, born in August 1992. She came to the United Kingdom in May 2017 on her own passport, endorsed with a valid visit visa. Her visa expired in November 2017. She made a claim for protection in February 2018 when she

was 6 months pregnant. She gave birth to [J], on 4 May 2018. The father of the child is also a Vietnamese national.

2. She claimed that she would face a risk of persecution if returned because of her religion and her political opinions. In her statement she said she found it increasingly difficult to practice as a Roman Catholic. She said she went with her parents every Sunday to church but she had been advised from an early age to be discreet about the practice of her religious beliefs.
3. She said that her father had been detained by the authorities for distributing leaflets protesting against confiscation of church land. She said then on 8 March 2016 she had been trying to protect religious images in her church and was detained for a day. Other members of her family had experienced difficulties, including her mother who was arrested in June 2017 trying to protect religious objects. Her father was also arrested for giving out leaflets protesting about land being taken from the church.
4. Since arriving in the United Kingdom she has been attending a local Catholic church and provided evidence to support this.
5. In 29 April 2016 she took part in a protest against a Chinese company, Formosa, dumping waste in the sea. She was arrested and detained for a day. She was assaulted in December 2016 for distributing leaflets
6. She said that in January 2017 she moved to Saigon and then became involved with the Viet Tan group. She also was involved with a group called Tuoi Tre. after moving to Saigon.
7. The respondent refused his claim on 24 August 2018. It was not considered to be credible and her claimed difficulties with the authorities were rejected. The respondent concluded she had not demonstrated she was a Roman Catholic. Similarly, she was questioned about the Viet Tan party and her account was considered vague and lacking in detail. The respondent also did not accept her involvement with Tuoi Tre. In considering her credibility reliance was placed upon section 8 of the 2004 Act in light of her delay in claiming. Overall, her account was considered to be vague, implausible and inconsistent.

#### The First tier Tribunal

8. The appeal was heard by First-tier Tribunal Judge Fowell at Birmingham on 9 November 2018. The appellant had produced her baptism certificate from Vietnam, dated 20 September 2018. It stated that on 4 October 1992 she was baptised by Bishop Phanxico Xave leVan Hong.

9. In a decision promulgated on 13 November 2018 her appeal was dismissed. The judge did not find it established that she had come to the adverse attention of the authorities because of either her religion or politics. No argument was advanced on article 8. The judge did not find the appellant credible.
10. Reference was made to the delay in claiming protection. She had not provided information from family to support her claims. The judge referred to a lack of evidence about the appellant's Catholicism. There was a letter from her Parish Priest in the United Kingdom but it was brief and did not state how the priest assessed her Catholicism. Beyond Facebook posts she had provided no evidence of active involvement in politics in the United Kingdom. The judge commented on her ability to leave Vietnam on her own passport without difficulty.

### The Upper Tribunal

11. Permission to appeal granted on the basis it was arguable the judge imposed too high a standard of proof in assessing the appellant's claim to be a Catholic. Permission was also granted on the basis the judge arguably failed to apply anxious scrutiny to the claim generally.
12. At hearing, the appellant's representative accepted that Catholics in Vietnam per se did not face persecution. However he made the point that any negative findings in this regard impact upon the appellant's general credibility. Furthermore, being a Roman Catholic would enhance the suspicion with which the appellant was viewed. He submitted that the judge in determining this issue had applied too high a standard of proof. The appellant had provided photographs showing her in a church. There was also a letter from the Parish Priest at the church she attended. I was also referred to her answers in the course of her asylum interview about her religious beliefs.
13. Regarding her political activities I was referred paragraph 23 of the decision where the judge comments on her ability to leave Vietnam on her own passport. Whilst this was relevant to her claimed political activity in Vietnam it did not take into account her activities in the United Kingdom. Mr Wilford argued the judge failed to take into account the risk from her Facebook activities.
14. Mr Tan referred me to paragraph 25 where the judge stated he did not find the appellant's account to be credible. He said that the appellant's religious activities were only part of the credibility issues arising. For example, at paragraph 18 the judge referred to her significant delay in claiming protection. Paragraph 19 comments upon the lack of evidence about her family's claimed difficulties. Regarding her claimed Catholicism, Mr Tan referred me

to the letter at D 57 of the respondent's bundle from the appellant's Parish Priest. He points out it actually said very little about the appellant. Similarly, the baptismal certificate from Vietnam contained very little information to assist the judge in relation to her claim.

15. Regarding her political activities and the Facebook evidence, the judge refers to this at paragraph 21 and paragraph 23. There was also very limited evidence of political activity since being in the United Kingdom and the judge was entitled to find he had not made out of claim of being an activist.

### Conclusions.

16. The judge accurately sets out the appellant's claim. The judge itemises the evidence submitted in support of that claim. At its height the appellant did not claim any high-level activity either in her church or in relation to politics either in Vietnam or since arriving. The genuineness of her fear was an issue.
17. The judge started by highlighting the delay of 9 months before she made her claim. At that stage her Visa had expired several months. The appellant had not been able to justify this delay.
18. There was a lack of evidence to show the appellant or her family have experienced difficulties in Vietnam. There were Facebook posts but the judge did not see anything which would place the appellant real risk.
19. The judge assessed the evidence about the appellant's religious activity in the United Kingdom. The judge accepted she had been to church here and knows the priest. However, the judge observed this did not mean her claim was genuine. The judge made the valid point that she was able to leave on her own passport without difficulty.
20. There was no challenge to how the judge dealt with the medical evidence.
21. Ultimately, the judge did not find the appellant to be credible either in relation to her claimed religious difficulties or political activities. The judge acknowledged she may have protested about environmental issues but the fact she was able to leave suggested she had not come to the adverse attention of the authorities.
22. The application for permission deals in detail with how the judge dealt with her claimed religious activities. Mr Wilford has not sought to make the case that the appellant is at risk of religious persecution but the findings related to the appellant's overall credibility. He submitted that in considering the evidence the judge expected to high a standard of proof. Much of the application deals

with her claim to be a Catholic. It is fair to say that many of her answers about Catholic beliefs were consistent with external information. She had provided her baptismal certificate as well as a letter from the Parish Priest here. The judge's comments on the letter from the Parish Priest and her attendance at church were valid.

23. The judge evaluated the evidence about her claim political activities. The decision does not indicate that the two aspects of the claim were interdependent. I accept that the findings in relation to one impacted upon the view of the appellant's credibility in relation to the other. However the principal claim related to political activities I can find no fault was how the judge dealt with the evidence. Ultimately I do not find any error of law established.\_

Decision.

No material error of law has been shown. Consequently, the decision of First-tier Tribunal Judge Fowell dismissing her appeal shall stand.

Signed  
Deputy Upper Tribunal Judge Farrelly.  
2019

Date: 30 June