



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006259
First-tier Tribunal No:
PA/54890/2021
IA/14868/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 14 May 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

JN
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Khan instructed by Legal Justice Solicitors.
For the Respondent: Ms Young, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 5 May 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Hatton ('the Judge'), promulgated on 17 November 2022, in which the Judge dismissed the appellant's appeal on all grounds.
2. The appellant is a citizen of Cameroon born on 6 June 1984 who entered the UK lawfully as a student on 31st January 2020. On 5 May 2021 the appellant claimed asylum which was refused by the Secretary of State on 24 September 2021.
3. At [19] the Judge identifies the two key issues to be determined in the appeal, being whether the appellant's account of what happened in Cameroon was

credible and whether this could cause any group in Cameroon to take adverse interest in her on return.

4. The Judge did not find the appellant credible, did not find her conduct was indicative of a person who has a genuine fear for their lives in Cameroon, and found no real risk of any claimed group, as the event she based the claim on are said not to have occurred.
5. The appellant sought permission to appeal which was granted by another judge of the First-tier Tribunal on the basis it was said the detail grounds set out a basis for arguing that there were possible errors in the factual conclusions reached by the Judge which could have infected the assessment of the core credibility of the appellant's factual claim and of the risks to her on return to her home state.
6. The grounds of appeal, dated 1 December 2022, contain some 54 paragraphs setting out the basis on which it is said the Judge erred in law.
7. Before the Upper Tribunal the Secretary of State's representative conceded that although individually those matters did not establish material legal error, cumulatively they did.
8. The core finding by the Judge was that the appellant was not credible. The grounds identify a number of areas in the credibility assessment in relation to both the evidence of the appellant and supporting documentary evidence. The grounds also assert the Judge failed to assess risk on return by failing to engage with the country information to which the Judge was referred.
9. The position of the parties is that the extent of the errors identified in the grounds seeking permission to appeal are so extensive that the matter should be remitted to the First-tier Tribunal to be heard afresh with no preserved findings.
10. Recent guidance has been provided as to whether it is appropriate for an appeal to be retained within the Upper Tribunal or remitted to the First-Tier Tribunal in the case of Begum [2023] UKUT 00046.
11. Paragraph 7.2 (a) and (b) of the Practice Statement relating to disposals of appeals by the Upper Tribunal reads:

7.2 The Upper Tribunal is likely on each such occasion to proceed to re-make the decision, instead of remitting the case to the First-tier Tribunal, unless the Upper Tribunal is satisfied that:-

(a) the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for that party's case to be put to and considered by the First-tier Tribunal; or

(b) the nature or extent of any judicial fact finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective in rule 2, it is appropriate to remit the case to the First-tier Tribunal.

12. In the current appeal there is a conceded material legal error in the manner in which the Judge determined the credibility of the appellant's claim, which it was accepted was the at the core of the Judge's decision to find against the appellant. I find that considering matters as a whole the effect of the accepted error has been to deny the appellant a fair hearing and to have the case put considered by the First-tier Tribunal properly.
13. In relation to the extent of the fact finding that will be required in order to determine the appeal, this is an appeal in which the accepted material legal error identified is sufficient to dispose of the issues in the appeal to the extent that the hearing before the Judge was of no value to the parties at all. I find on

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that basis both exceptions set out in paragraph 7.2 are made out and that it is appropriate for the appeal to be remitted to the First-tier Tribunal (IAC) sitting in Bradford to be heard afresh by a judge other than Judge Hatton.

Notice of Decision

14. The First-tier Tribunal Judge materially erred in law. The determination is set aside. The appeal shall be remitted to the First-tier Tribunal (IAC) sitting at Bradford to be heard afresh by a judge other than Judge Hatton.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

5 May 2023