



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/17420/2010

THE IMMIGRATION ACTS

Heard at Field House
On 26 February 2016

Decision Sent to Parties on:
On 7 March 2016

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

X Y (BANGLADESH)

[ANONYMITY ORDER MADE]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the appellant:

Mr E Fripp, Counsel instructed by Sutovic & Hartigan
Solicitors.

For the respondent:

Mr J Parkinson, a Senior Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The appellant is a citizen of Bangladesh born on 7 January 1977. She entered the United Kingdom on 9 April 2010 with entry clearance as a potential organ donor valid to 25 September 2010. On 15 September 2010 the appellant applied for further leave to remain. Her application was rejected on 25 October 2010 and the appellant did not challenge that rejection.
2. On 6 December 2010, the appellant claimed asylum, humanitarian protection and leave to remain on human rights grounds (Article 8 ECHR) based on threats made to her in the United Kingdom. On 17 December 2010, the respondent refused to grant leave to remain on any of those grounds.
3. The appellant appealed to the First-tier Tribunal. Her appeal was dismissed by First-tier Tribunal Judge Tiffen. The appellant appealed to the Upper Tribunal which on 21 March 2011 found a material error of law and adjourned the appeal for the decision to be remade, in the Upper Tribunal. It was then considered possible that the appeal might be suitable for a country guidance decision, but in the light of the anonymity order which has been made, the appeal is not being treated as country guidance and it is now time for it to be heard substantively.
4. It is now over 5 years since the last time that the facts in this appeal were assessed. Since the appeal is no longer suitable for potential country guidance, there is no good reason to retain it in the Upper Tribunal for fact-finding and for the substantive remaking of the decision.
5. The respondent's file has been lost. The Upper Tribunal has provided such copy documents as it can to assist the respondent. The directions below make provision for copy documents to be provided by the appellant to assist the respondent, and the basis on which they are to be provided.

DIRECTIONS

6. I make the following directions for the future conduct of this hearing:
 - (1) This appeal is remitted to the First-tier Tribunal. It is listed for substantive hearing at Taylor House on 5 July 2016 with a time estimate of 1 day.
 - (2) The anonymity order is maintained.
 - (3) The appellant's Grounds of Appeal (unless further amended or varied on application to the First-tier Tribunal) shall be as set out in her Amended Grounds of Appeal/ Schedule of Heads of Claim dated 16 January 2015;

- (4) The findings at paragraphs 20, 21, and 23 of the First-tier Tribunal decision are preserved, with the exception of the final sentence of paragraph 23, subject as always to the displacement of those findings in the light of further evidence and/or other changes which the First-tier Tribunal considers to be relevant to the continued validity of such findings;
- (5) By consent, and following the loss of the respondent's file, it is agreed that:
 - (a) The appellant by his representatives Messrs. Sutovic and Hartigan shall provide to the respondent a copy of all documents which the appellant obtained from the respondent by Subject Access Request and all and any documents previously served by the appellant on the respondent in support of her appeal.
 - (b) Such documents shall include copies of any relevant CD or CDs on which reliance is to be placed.
 - (c) The respondent will reimburse Sutovic and Hartigan at the rate of 5p per copy page to a maximum of £200 for such copy documents.
- (6) The parties shall if possible agree, serve and file a joint bundle before the substantive hearing in the First-tier Tribunal.
- (7) If no joint bundle is agreed, and subject to any order which may be made by the First-tier Tribunal as to evidence, the parties shall file and serve their evidence for the substantive hearing, addressing all significant issues to be considered at such hearing and including witness statements for any witness upon whose evidence either party will rely at the hearing, as follows:
 - (a) **Not later than 21 days** before the substantive hearing of this appeal in the First-tier Tribunal, the appellant shall file and serve all evidence upon which he intends to rely at the hearing;
 - (b) **Not later than 14 days** before the substantive hearing of this appeal in the First-tier Tribunal, the respondent shall file and serve all evidence upon which she intends to rely at the hearing.
- (8) The First-tier Tribunal may decide to fix a case management review; in default, it remains open to either party to apply for a case

management review to be fixed, in good time before the substantive hearing.

- (9) Liberty to either party to apply to vary the above directions, on written notice to the other party and the Tribunal.

Date: 2 February 2017

Signed: *Judith A J C Gleeson*
Upper Tribunal Judge Gleeson

Approval for Promulgation

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| Name of Upper Tribunal Judge issuing approval: | Mrs J A J C Gleeson |
| Appellant's Name: | Apltname |
| Case Number: | AA/17420/2010 |

Oral decision (please indicate)

I approve the attached Decision and Reasons for promulgation

Name: *Judith Gleeson*

Date: 3 February 2016

Amendments that require further action by Promulgation section: **None**