



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/02637/2016

THE IMMIGRATION ACTS

Heard at Glasgow

**Decision &
Promulgated
On 7 June 2017**

Reasons

On 5 June 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ISATOU MANSARY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Miss L McCrorie, of Loughran & Co, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a determination by First-tier Tribunal Judge David C Clapham SSC, promulgated on 17 January 2017.
2. In a response under rule 24 to the grant of permission, the SSHD said:
“The respondent does not oppose the appellant’s application for permission to appeal and invites the Tribunal to determine the appeal with a fresh oral (continuance) hearing to consider whether the appellant qualifies as a refugee”.
3. That is a standard form of wording. It is badly phrased, but has been in common use for some years where the respondent concedes that there has been such error by the FtT as to require rehearing of the case.
4. Mr Govan acknowledged that the response is in terms which are intended to indicate a concession of error of law, but pointed out that the nature of

any error is not indicated. He said that his instructions were to seek to argue that notwithstanding the response (which was signed by a different representative of the SSHD) there had been no error of law by the FtT.

5. Miss McCrorie submitted that the concession could not be withdrawn, or alternatively that there were no circumstances such that the UT should permit its withdrawal.
6. Neither representative could refer to any authority on whether or when such a concession could be withdrawn.
7. In absence of authority, I expressed my view that a concession is capable of being withdrawn, but subject to the permission of the UT; and that where the SSHD has led an appellant has been led to believe that her case in the UT is not resisted (and in effect a remit is all that she sought in her grounds) then a strong explanation would be needed to justify a reversal.
8. No explanation was offered of how it came about that a concession was issued in writing, in unqualified terms, and withdrawal then sought.
9. In those circumstances, I declined to allow the concession to be withdrawn, and indicated that the appeal to the UT would be resolved as follows.
10. The decision of the FtT is **set aside**. None of its findings are to stand, other than as a record of what was said at the hearing.
11. In terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 the case is **remitted to the FtT** for an entirely fresh hearing.
12. The member(s) of the FtT chosen to consider the case are not to include Judge David C Clapham SSC.
13. No anonymity direction has been requested or made.



5 June 2017
Upper Tribunal Judge Macleman