



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

Appeal Number: PA/05194/2017

THE IMMIGRATION ACTS

**Heard at Manchester
on 30 January 2018**

**Decision and Reasons
promulgated
on 31 January 2018**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

PB

(anonymity direction made)

Respondent

Representation:

For the Appellant: Mr McVeety Senior Home Office Presenting Officer
For the Respondent: Mr Holt instructed by Duncan Lewis & Co Solicitors

ERROR OF LAW FINDING AND REASONS

1. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judge Foudy promulgated on 4 October 2017 in which the Judge allowed the appellant's appeal on protection and human rights grounds against the order for her deportation from the United Kingdom.

Background

2. PB, a citizen of Cameroon born in 1974, is the subject of a deportation order following her conviction for possessing a false Swedish passport that she was attempting to use to leave the United Kingdom to travel to Sweden.
3. PB was advised that she was to face deportation. A deportation order was signed on 21 January 2016. PB claimed asylum on 23 March 2016.
4. PB asserts that she cannot be deported from the United Kingdom as to do so will breach the United Kingdom's obligations under both the Refugee Convention and ECHR.

Error of law

5. The Judge properly identified that the key question in this appeal was whether PB is a credible witness in relation to the core of her claim [19]. The Judge at [18] notes a number of serious evidential issues which it was found undermined PB's overall credibility.
6. The Judge at [20] found *"If the only evidence in support of her claimed sexuality was the unreliable word of the appellant, then I would have no hesitation in finding that her claim lacked any credibility"*.
7. The Judge at [21 - 23], however, considered other aspects of the evidence originating from three witnesses supporting the appellants case. Having done so the Judge finds at [23] *"I do find, on the lower standard of proof, that the relationship is genuine"*. The Judge therefore found that PB's account of being a bisexual woman was accepted.
8. The Secretary of State's challenge to the decision can be classed, insofar as it challenges the findings, as being a challenge to the weight the Judge gave to the evidence relied upon in the appeal.
9. It was not disputed by the Secretary of State that the Judge is fully entitled to reject some aspects of an individual's case, including those relating to what occurred in their home country, but to accept that what occurred in the United Kingdom is credible.
10. I find the Judge clearly considered the evidence from all sources with the required degree of anxious scrutiny and has given adequate reasons in support of the findings made. As such the weight to be given to the evidence was a matter for the Judge
11. It has not been made out the Judge was not entitled to give the evidence from the three witnesses the weight that evidence was given in the determination.
12. No challenge on the basis of the rationality or perversity of the decision is pleaded or made out on the facts.
13. It matters not whether another judge would not have made this decision. The Judge considered the evidence in a structured manner weighing up the relative strengths of the evidence that the First-tier Tribunal had been asked to consider before making adequately reasoned findings. The Secretary State fails to make out any arguable

basis for the Upper Tribunal interfering with that aspect of the decision.

14. At [24] the Judge found *“If removed I find that the Appellant may well live her sexual life discreetly in Cameroon, but that will be because of her fear of persecution rather than her innate desire for discretion.”* The Secretary State claims the Judge failed to adequately address the decision of the Supreme Court in HJ (Iran) [2010] UKSC 31 and that in light of the confirmation in the decision that PB has been dishonest, is prepared to deceive, and her poor credibility overall, the Judge has failed to give clear reasons for this conclusion.
15. Cameroon is a country with a very poor human rights record in relation to same-sex relationships. There is evidence in the public domain of women being arrested in Cameroon on suspicion of being lesbians. This is a country where consensual same gender sex is considered a criminal act punishable by a jail sentence ranging from six months to 5 years and a fine. It is also a country in which detainees are frequently tortured in police stations to force them to confess. The Judge was satisfied on the evidence that the reason PB would act discreetly was to avoid the consequences of what is likely to happen to her as a result of the homophobia that has been witnessed in Cameroon and many countries across Africa in recent years. Again, the weight to be given to that evidence was a matter for the Judge. The Judge was entitled to reject parts but also accept other parts of PB’s evidence. The Secretary State fails to arguably establish legal error material to the decision to allow the appeal on this basis either.

Decision

- 16. There is no material error of law in the Immigration Judge’s decision. The determination shall stand.**

Anonymity.

17. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Judge of the Upper Tribunal Hanson

Dated the 30 January 2018

