



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/09105/2017

THE IMMIGRATION ACTS

Heard at Bradford
On 28 June 2018

Decision & Reasons Promulgated
On 13 July 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

NM
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Khan, instructed by Parker Rhodes Hickmotts, Solicitors

For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, NM, is a citizen of Angola. She appealed to the First-tier Tribunal (Judge Ian Howard) against a decision of the respondent dated 1 September 2017 to refuse to grant her asylum. The First-tier Tribunal, in a decision promulgated on 7 November 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I find that the decision of the First-tier Tribunal should be set aside. I was assisted at the Upper Tribunal Hearing by Mr Diwnycz, who appeared for the Secretary of State,

who told me that the respondent did not oppose the appeal. I shall give only brief reasons therefore.

3. There was a dispute between the parties regarding the age of the appellant. The respondent was of the opinion that the appellant was born in 1997; the appellant claimed that she was (as at the date of the First-tier Tribunal hearing) only 17 years old. When we considered the evidence relating to the appellant's age, Judge Howard concluded [20] that the appellant was 17 years old. However, having made that finding, there was no suggestion in his decision that the judge had regard to the appellant's youth in his analysis of her credibility as a witness. The parties accept that the Joint Presidential Guidance Note No.2 of 2010 was specifically brought to the judge's attention by Counsel for the appellant. However, the judge makes no reference to that guidance nor does he appear to have had regard to the fact that the appellant's asylum interview was conducted without any of the appropriate safeguards for minors having been employed.
4. In consequence, the appellant has been deprived of a fair hearing of her appeal. The decision of Judge Howard is set aside; none of the findings of fact shall stand. There will need to be a new fact-finding exercise which is better conducted by the First-tier Tribunal to which this appeal is now returned for that Tribunal to remake the decision.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated on 7 November 2017 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Judge Ian Howard) for that Tribunal to remake the decision.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 11 JULY 2018

Upper Tribunal Judge Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 11 JULY 2018

Upper Tribunal Judge Lane