



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/04377/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 8 March 2019**

**Decision & Reasons Promulgated
On 16 April 2019**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**KCDK
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Richardson, Counsel instructed by Pasha Law
Chambers Solicitors

For the Respondent: Mr S Walker, Home Office Presenting Officer

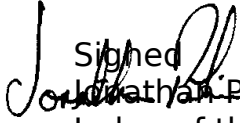
DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. Breach of this order can be punished as a contempt of court. I make this order because she is an asylum seeker and, as such, is entitled to privacy and because publicity could itself create a risk.
2. This is an appeal by a citizen of the Philippines against the decision of the First-tier Tribunal dismissing her appeal against a decision of the Secretary of State to refuse her asylum, humanitarian protection and leave to remain on human rights grounds.

3. It was made perfectly clear before the First-tier Tribunal that although nothing was abandoned the real thrust of the appeal lay in Article 8 of the European Convention on Human Rights. It was the appellant's case that removing her would be a disproportionate interference with her private and family life. An essential part of that reasoning but by no means the whole of the case was her relationship with a British citizen who is some 30 years or thereabouts her senior.
4. The First-tier Tribunal did not make any findings on that relationship. It might be thought that the judge was getting ready to say that the relationship was not genuine because the judge described the appellant's reliance on that relationship as opportunistic and clearly regarded the age difference as a telling feature. Nevertheless no conclusions were reached. That is, I find, a serious omission.
5. Further the two points relied on that tended to suggest that the judge was going to say the relationship was not genuine were not in themselves particularly weighty. A relationship can be opportunistic and entirely genuine. It is also the case that relationships between people many years apart in age are unusual and for that reason it might prompt enquiry. It is also true and equally well-known that there are many examples of people having wholly genuine and valid and rich marriages when there is a big age gap. The reasons relied upon were not sufficient on their own to support the conclusion that was not actually reached. This is clearly unsatisfactory and Mr Walker did not seek to suggest otherwise.
6. It follows therefore that I set aside the decision of the First-tier Tribunal. I decided to preserve none of the findings. I am uncomfortable about how the inadequately reasoned and non-concluded comments on the relationship may have impacted on the other findings and I fear that trying to preserve findings could in the end just create complications where there should not be complications and so I set aside the First-tier Tribunal's decision in its entirety.
7. I note that the appellant's solicitors have prepared further evidence and are engaged in getting more evidence available about the appellant's psychiatric condition. I give no directions about how the First-tier Tribunal lists the matter. I simply draw to the attention of the First-tier Tribunal that there are further investigations being made. It is for the appellant to make representations to the First-tier Tribunal if necessary about how further evidence should be adduced. I make no directions simply draw that to the attention of the First-tier Tribunal.
8. I am satisfied that the decision is unsound for the reasons given. I set it aside and direct the case be heard again in the First-tier Tribunal.

Notice of Decision

9. The First-tier Tribunal erred. I allow the appeal. I set aside the decision and I direct that the case be heard again in the First-tier Tribunal.


Signed
~~Jonathan Perkins~~
Judge of the Upper Tribunal

Dated 12 April 2019