



IAC-AH-SC-V1

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

Appeal Number: AA/07740/2014

THE IMMIGRATION ACTS

**Heard at Centre City Tower, Decision & Reasons Promulgated
Birmingham
On 18th January 2016**

On 28th January 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

**H I D
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No legal representation

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction and Background

1. The Appellant appeals against a decision of Judge Jessica Pacey of the First-tier Tribunal (the FTT) promulgated on 19th November 2014.
2. The Appellant is a female citizen of the Ivory Coast born in 1972, who arrived in the United Kingdom as a visitor in November 2013, and claimed asylum on 3rd December 2013.

3. The Appellant's claim was that she feared persecution in the Ivory Coast because she had worked for the former President Gbagbo between 1998 and 2011.
4. The application was refused by letter dated 18th September 2014, and on 19th September 2014 a decision was made to remove the Appellant from the United Kingdom.
5. The Appellant appealed, and the appeal was heard by the FTT on 11th November 2014. The FTT heard evidence from the Appellant, and took into account that she did not have legal representation. The FTT found that the Appellant's account was not credible and her appeal was dismissed on all grounds.
6. The Appellant applied for permission to appeal to the Upper Tribunal and the grounds may be summarised as follows.
7. Firstly the FTT had failed to make findings on key areas of evidence. The FTT had failed to make any findings of fact in relation to the attacks upon the Appellant which it was contended had occurred in December 2012 and October 2013.
8. Secondly the FTT had failed to make findings on a detailed letter of support for the Appellant supplied by the chief spokesman in exile of the Ivorian Popular Front.
9. Thirdly the FTT had erred in paragraph 53 by recording; "the authorities in Ivory Coast found and returned people from Ghana" when it was clear that what should have been recorded was "the authorities in Ghana found and returned people to the Ivory Coast."
10. Permission to appeal was granted by Judge Grant-Hutchison of the FTT in the following terms;
 - "2. It is arguable that the judge erred in law by:
 - (a) failing to consider and make findings on various aspects of the Appellant's account for example in relation to the events in December 2012 and October 2013,
 - (b) failing to consider and make findings on a letter of support from the chief spokesman in exile of the former President which is recorded at paragraph 22 of the Decision and Reasons under the heading 'the Appellant's case' which states that 'he met the Appellant frequently in the Ivory Coast and recently in London' and
 - (c) misinterpreting some background evidence when the judge states at paragraph 53 of her Decision and Reasons that 'the authorities in Ivory Coast found and returned people from Ghana' when it should read 'the authorities in Ghana found and returned people to the Ivory Coast' which may have made a material difference to the outcome of the appeal."

11. Following the grant of permission the Respondent lodged a response dated 12th December 2014 pursuant to rule 24 of The Tribunal Procedure (Upper Tribunal) Rules 2008 contending that the decision of the FTT disclosed no material error of law.
12. Directions were subsequently issued that there should be an oral hearing before the Upper Tribunal to ascertain whether the FTT had erred in law such that the decision must be set aside.

The Upper Tribunal Hearing

13. The Appellant attended the hearing. She did not have a legal representative but was accompanied by DF acting a McKenzie friend.
14. The Appellant could not speak English and could only speak French. Unfortunately there was no interpreter. DF indicated that he is fluent in French, and I decided, without objection from Mr McVeety, that it was appropriate to proceed and consider whether an error of law was disclosed in the FTT decision.
15. DF indicated that in relation to error of law, the Appellant relied upon the grounds contained within the application for permission to appeal, and the grant of permission by Judge Grant-Hutchison.
16. Mr McVeety submitted that there was no error of law disclosed in the FTT decision. I was asked to accept that it was established law that the FTT did not need to make findings on every issue raised by the Appellant, and need not forensically examine each point made on behalf of the Appellant.
17. Mr McVeety submitted that the decision as a whole needed to make sense, so that the parties could understand why they had won or lost, and I was asked to find that the decision in this appeal satisfied that criteria.
18. It was accepted that the FTT had made a mistake in paragraph 53, but that was not material.
19. At the conclusion of submissions I reserved my decision.

My Conclusions and Reasons

20. As stated in Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC) in the headnote to that decision,

“It is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case.”
21. However as also confirmed in Budhathoki, judges must identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons for making findings.
22. In this appeal, the FTT erred in failing to make findings on material evidence. The FTT made findings in relation to events said by the

Appellant to have occurred in the Ivory Coast, in paragraphs 51 - 53 of the decision. The FTT found that the Appellant was not credible as it was not accepted that when fleeing from FRCI members, she would flee to her own village where she could easily be tracked down. The Appellant claimed to have been attacked and raped in December 2012 in her own village, and detained and ill-treated in October 2013, when she was again taken from the village.

23. At paragraph 34 of the reasons for refusal letter, the Respondent accepts that the Appellant was attacked by FRCI members. This acceptance must relate to the Appellant's claim to have been attacked in her village in December 2012. Therefore, the FTT in paragraphs 52 and 53, in finding that it was not credible that the Appellant fled to her own village, was making a finding that conflicts with the concession made by the Respondent.
24. The FTT makes no findings as to the events which the Appellant claims occurred in December 2012 and October 2013. The FTT has therefore failed to make findings on material aspects of the Appellant's claim, and in concluding that the Appellant did not flee to her own village, has gone behind a concession made by the Respondent.
25. The FTT has not made any findings upon the letter of support from the spokesman for the Ivorian Popular Front, although this letter was referred to at paragraph 22 of the decision. That letter gave some limited support to the Appellant's case, in that there was reference to the Appellant commencing employment with the Residence Surveillance Service in 1998. Findings should have been made on this letter, and an explanation given as to whether any weight should be attached to it.
26. I conclude that the FTT decision must be set aside as being unsafe, because of the failure to make findings on material matters, and failure to provide adequate reasons for the credibility findings made. Although the FTT erred in paragraph 53 as contended in the grounds, I do not find that error to be material.
27. This is not a case where any findings made by the FTT can be preserved.
28. I have considered paragraph 7 of the Senior President's Practice Statements and find that it is appropriate to remit the appeal back to the First-tier Tribunal because no findings are preserved, which means that there must be extensive judicial fact-finding to be carried out, and it is more appropriate that this is done by the FTT rather than the Upper Tribunal.
29. The appeal will be heard at the FTT Hearing Centre at Sheldon Court, Birmingham by a judge other than Judge Pacey. The parties will be notified of the date of the hearing in due course. I should mention that I am aware that the Appellant lives in Stockton-on-Tees and therefore Birmingham is not the nearest hearing centre. This was canvassed with

her at the hearing, but in view of the fact that DF is based in Birmingham, the Appellant wished any further hearing to take place at Birmingham.

Notice of Decision

The decision of the FTT involved the making of an error of law such that it is set aside. The appeal is allowed to the extent that it is remitted to the FTT with no findings of fact preserved.

Anonymity

The FTT made no anonymity direction. However I make an anonymity order of my own volition as this is an asylum claim and the Appellant claims to fear persecution if removed from the United Kingdom.

I therefore make an anonymity direction pursuant to 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 her or any member of her family. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

21st January 2016

**TO THE RESPONDENT
FEE AWARD**

The issue of any fee award will need to be considered by the FTT.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

21st January 2016