



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12999/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 24 May 2017

Decision & Reasons Promulgated
on 26 May 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

BEN (ELIZABETH) HUNTER

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr E MacKay, of McGlashan MacKay, Solicitors
For the Respondent: Mr M Matthews, 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 28 March 2017.
2. The appellant's first ground, read shortly (¶3 - 4 of the application) is that at ¶53 the judge gave manifestly inadequate weight to some considerations and manifestly excessive weight to others; and that having accepted certain evidence to the extent he did, did not apparently have regard to the inherent improbability of a heterosexual woman engaging in sexual relationships with multiple lesbian women simply to bolster her asylum claim.
3. Mr Matthews said that although the respondent would have been prepared to argue against the other grounds of appeal, the first ground disclosed deficiencies in the judge's consideration of the evidence of the witnesses for the appellant, such as to require rehearing in the FtT.

4. Mr MacKay agreed with that outcome.
5. On 22 May, the appellant forwarded materials to the UT directly by email (not through her solicitors). These are a mixture of submissions and evidence, some of it conveyed indirectly in the form of a letter from a “caseworker” at “Unity Centre, Glasgow”. The UT copied these materials to Mr MacKay and to Mr Matthews in advance of the hearing. The supply of materials in this form was inappropriate, particularly when the appellant has representation. The materials include quite serious allegations against the respondent and against the judge not merely of incompetence but of unfairness or bias. These are made without any proper foundation, and do not correspond with the grounds of appeal. They were not accompanied by any application for admission of further evidence, or for amendment of the grounds. As the case developed in the UT, these materials have played no part in the outcome, so I simply place the matter on record.
6. The decision of the FtT errs in law, as conceded by the respondent. The decision is **set aside**. None of its findings are to stand, other than as a record of what was said at the hearing.
7. The nature of the case is such that it is appropriate in terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to **remit the case to the FtT** for an entirely fresh hearing.
8. The member(s) of the FtT chosen to consider the case are not to include Judge David C Clapham SSC.
9. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

24 May 2017
Upper Tribunal Judge Macleman