



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/13556/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 15th September 2017

**Decision & Reasons
Promulgated
On 30th October 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE R C CAMPBELL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

G A

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr P Duffy (Senior Home Presenting Officer)

For the Respondent: Respondent appeared in person

DECISION AND REASONS

1. The respondent's appeal against refusal of her protection claim was allowed by First-tier Tribunal Judge Callow ("the judge") in a decision promulgated on 25th June 2017. The judge allowed the appeal on asylum grounds and dismissed it in relation to humanitarian protection.
2. In grounds seeking permission to appeal, the Secretary of State contended that the judge had failed to give adequate reasons for his decision. One paragraph contained the reasons and related findings. The judge found the respondent to suffer from schizophrenia, which bore on her actions in 2004 and 2005 in making asylum claims in a false identity. It was

contended that the finding that the respondent's illness was responsible for the deception was not properly explained.

3. Moreover, the judge gave no proper reasons for accepting that the respondent had suffered problems with the authorities in her country of origin, was under house arrest, visited by the police daily and required to report to a police station. In refusing the protection claim, the Secretary of State had not accepted the account, not least because the respondent claimed that although under house arrest and not allowed to leave the premises, she managed to sell her flat, employ an agent and then leave the country, using her own passport. There was a failure to engage with these important aspects.
4. Permission to appeal was granted by a First-tier Tribunal Judge on 24th July 2017, on the basis that it was arguable that the judge erred in law in failing to take full account of the appellant's immigration history and in failing to give adequate reasons for the overall conclusion.

The Hearing

5. The respondent appeared in person. There was some delay as no interpreter in Russian was available. In due course, an interpreter was booked and attended. I was satisfied that the respondent and the interpreter understood each other in Russian and they confirmed to me that this was the case. I explained the procedure to be followed to the respondent. She confirmed that she understood that the issue for the Tribunal was whether the judge's decision contained an error of law, such that the decision should be set aside and remade.
6. Mr Duffy relied upon the written grounds. At paragraph 19 of the decision, the judge had not given sufficient reasons for his findings.
7. In response, the respondent said that she remained at risk on return as the same regime was in place, with the same president. Paragraph 19 of the judge's decision having been summarised in Russian for the respondent's benefit, she said that she had nothing to add. The country was run the same way.

Conclusion on error of law

8. I conclude that the decision contains a material error of law, as insufficient reasons have been given to show how the judge reached his findings. Overall, the decision is thorough, as one would expect from the very experienced judge who heard the appeal. In paragraph 19, however, the respondent's core claims are accepted but without engaging with the Secretary of State's case, as it appeared in paragraphs 19 to 22 of her decision letter dated 17th May 2016.
9. The Secretary of State disbelieved the respondent's account. There was considerable delay in disclosing the basis of her claim. She was unable to explain whether she was detained in hospital on her own or elsewhere or

who sent her there. She claims to have been in prison for six months and yet, on the other hand, having been prohibited from leaving the area surrounding her home, and being required to report to the authorities, she apparently managed to sell her flat, employ an agent and leave the country with her own passport. Since her arrival here, she has on occasions expressed a wish to be returned. In relation to claimed problems with neighbours in her home area abroad, the respondent made no mention of seeking help from the authorities.

10. The analysis contained in the decision does not show what the judge made of these adverse findings by the Secretary of State or explain how the overall conclusion that the appellant is at risk on return was reached.
11. The decision must be set aside and remade, as it contains a material error of law. Mr Duffy suggested that the appropriate venue for remaking the decision is the First-tier Tribunal, in view of the extent of the fact-finding required, and the need to fully engage with the Secretary of State's case. I agree with that proposal, having first heard from the respondent, who said that she understood what was being proposed.
12. The decision will be remade in the First-tier Tribunal before a judge other than First-tier Tribunal Judge Callow. A Russian interpreter will be required. No findings of fact are preserved and the hearing will be de novo.

Notice of Decision

The decision of the First-tier Tribunal is set aside and shall be remade in the First-tier Tribunal, before a judge other than First-tier Tribunal Judge Callow.

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

Deputy Upper Tribunal Judge R C Campbell