



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/12380/2011

THE IMMIGRATION ACTS

Heard at Bradford
On 9 August 2013

Determination Sent
On 14 August 2013
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Before

UPPER TRIBUNAL JUDGE
D E TAYLOR

Between

FLAVIA HILDAH NABUSONDA

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant:

For the Respondent: Mrs Pettersen, HOPO

DECISION AND DIRECTIONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Sarsfield made following a hearing at Bradford on the 5 January 2013, dismissing her appeal against the decision of the respondent made on 24 October 2011 to refuse to grant her asylum in the UK.
2. The appellant challenged the decision on the grounds that the judge had erred in failing to grant her an adjournment when she was feeling unwell and admitting documents adduced by the respondent at the hearing and not giving her the opportunity to consider them. She said that she was not given a fair hearing. She was unrepresented.
3. Permission to appeal was granted on the 2 February 2013 by Designated Judge Murray for the reasons stated in the grounds.
4. Mrs Pettersen did not seek to defend the determination, nor the judge's conduct of the hearing. She said that the appellant needed to know that she had been treated fairly and on the face of it, it did not appear that she was. She agreed that the proper course would be for the appeal to be remitted to the First-tier Tribunal to be heard afresh by a judge other than Judge Sarsfield.
5. The decision is set aside. The judge should have been very cautious in proceeding with an appeal where the appellant said that she was in pain and was taking strong painkillers. Medical evidence had been provided at the CMR hearing, just two weeks earlier, which said that her condition made it difficult to travel. Even if he was justified in proceeding, there is nothing in the determination which indicates that the appellant, who was unrepresented, was given any time to consider the documents produced by the respondent at short notice, and which the judge records that she appeared shocked by.
6. This appeal will be heard at Bradford and the decision will be remade by a judge other than Judge Sarsfield under 7.2 of the Senior President's Practice Statement dated 25 September 2012 because of the nature and extent of the judicial fact finding which is necessary in order for the decision in the appeal to be remade.

Signed

Date

Judge of the Upper Tribunal