



**Upper Tribunal
(Immigration and Asylum Chamber)
RP/00129/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Manchester

Decision & Reasons

On 13th October 2017

Promulgated

On 19th October 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

DAA

(ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Mr A McVeety, Senior Home Office Presenting Officer
For the Respondent: Mr G Brown instructed by Compass Immigration Law

DECISION AND REASONS

Introduction and Background

1. The Secretary of State appeals against a decision of Judge O R Williams of the First-tier Tribunal (the FtT) promulgated following a hearing on 5th June 2017.
2. The Respondent before the Upper Tribunal was the Appellant before the FtT and I will refer to her as the claimant.

3. The claimant is a female Somali citizen born 1st January 1982. She appealed to the FtT against the Secretary of State's decision dated 14th September 2016 to revoke her refugee status.

4. The Secretary of State revoked the refugee status with reference to paragraph 339AB of the Immigration Rules which is set out below;

339AB This paragraph applies where the Secretary of State is satisfied that the person's misrepresentation or omission of facts including the use of false documents, were decisive for the grant of refugee status.

5. The Secretary of State noted that the claimant had been interviewed in connection with her asylum application on 15th July 2010. She stated that she was single and had never been married and was not in a relationship. She confirmed she had no children. She stated that she had never been back to Somalia since she fled.

6. The Respondent discovered that the above answers were not correct when the claimant's husband was encountered at Manchester Airport on 29th September 2013 attempting to illegally obtain entry into the UK. The Respondent discovered that the claimant and her husband had married in 2008 and he and the claimant had twins born 6th February 2012. The claimant had given birth to a son in February 2009 and her husband was the father. The claimant and her husband had another son born 15th February 2015. The claimant subsequently admitted that she had been able to return to Somalia in 2007.

7. The Respondent's view was that if the claimant had been truthful and disclosed when interviewed that she was married and at that time had one son with her husband, she would not have been granted refugee status, as she had been granted asylum and indefinite leave to remain as an adult dependant of her mother.

8. The claimant appealed to the FtT. Her appeal was allowed. This caused the Secretary of State to apply for permission to appeal and the grounds are summarised below.

9. The only issue before the FtT was revocation of refugee status. The claimant's indefinite leave to remain had not been revoked. It was contended that the claimant had knowingly used deception when she applied for asylum when she failed to disclose that she had been married and had a child. It was contended that refugee status would not have been granted if it had been known that she had been married and had a child. It was contended that the FtT had erred in law in allowing the appeal.

10. Permission to appeal was granted by Judge Bird in the following terms;

"2. The Respondent seeks permission to appeal against this decision on the grounds that the judge made an arguable error of law in finding that although misrepresentation was employed by the Appellant in seeking refugee status, it made no difference having regard to the Gateway Protection Programme Policy (paragraph 74-75). It is alleged

that had the truth been known then the Appellant would not have been granted refugee status.

3. The judge considered this issue from paragraphs 67 to 76. It is arguable that whilst accepting that the Appellant used misrepresentation in obtaining her refugee status, he fails to explain why the Respondent's decision to revoke refugee status was not in accordance with the law".

11. Following the grant of permission directions were issued that there should be a hearing before the Upper Tribunal to decide whether the FtT decision contained an error of law such that it should be set aside.

The Upper Tribunal Hearing

12. I asked Mr McVeety to clarify what error of law the FtT was said to have committed. The grounds upon which permission to appeal had been granted, disclosed disagreement with the decision, but I was unclear as to exactly how it was contended the FtT had erred in law. Mr McVeety advised that he could add nothing to the grounds upon which permission to appeal had been granted.
13. Mr Brown submitted that the grounds disclose no error of law. The judge had considered paragraph 339AB of the Immigration Rules, and had given reasons for the conclusion reached. I was asked to find that the FtT had not erred in law.

My Conclusions and Reasons

14. As I announced at the hearing, I find the FtT did not materially err in law. The FtT considered the evidence placed before it. Findings were made and sustainable reasons for those findings given. It cannot be said that the findings of the FtT are perverse or irrational, and in my view sustainable and adequate reasons for the conclusions have been given.
15. The FtT at paragraph 73 found that the claimant had given a series of misleading responses in that she had claimed that she had never been married, that she was single, she had not travelled back to Somalia, and that she had no children.
16. The FtT then had to decide whether the misrepresentation was decisive in the grant of refugee status.
17. The FtT considered not only the answers given by the claimant in interview, in connection with the Gateway Protection Programme application, but also considered the Gateway Protection Programme which was published on 11th January 2010 and contains eleven paragraphs.
18. The FtT specifically considered paragraph 6 of the Gateway Protection Programme which relates to dependants, and was satisfied that notwithstanding the incorrect answers given by the claimant, the Gateway Protection Programme would still have been met.

19. The FtT gave reasons for reaching that conclusion, and they are set out at paragraphs 75 and 76. I will not set out those paragraphs here, but conclude that I find the reasons given by the FtT adequately explain why the FtT did not find the misrepresentations to be decisive in the grant of refugee status.
20. I therefore conclude the grounds submitted by the Secretary of State disclose that the claimant was not truthful when interviewed, and they disclose a strong disagreement with the conclusion reached by the FtT. However, the grounds do not disclose a material error of law, the Secretary of State has not shown that the FtT failed to consider any material matter, or applied incorrect legal principles, or gave weight to immaterial matters. The FtT gave reasons for the decision reached, and as I find no material error of law, the decision of the FtT stands and the appeal of the Secretary of State is dismissed.

Notice of Decision

The FtT decision does not disclose a material error of law and is not set aside. The appeal of the Secretary of State is dismissed.

Anonymity

The FtT made an anonymity direction. I continue that 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 the Appellant or any member of her 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

16th October 2017

Deputy Upper Tribunal Judge M A Hall

TO THE RESPONDENT FEE AWARD

No fee is paid or payable. There is no fee award.

Signed

Date

16th October 2017

Deputy Upper Tribunal Judge M A Hall

