



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

Appeal Number: AA/10478/2013

THE IMMIGRATION ACTS

**Heard at Glasgow
on 17 July 2014**

**Determination
promulgated
On 21 July 2014**

Before

**Mr C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE MACLEMAN**

Between

OLGA KATKOVA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Livingstone Brown,
Solicitors

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

No anonymity order requested or made

DETERMINATION AND REASONS

1. The appellant appeals against a determination by First-tier Tribunal Judge D C Clapham SSC, promulgated on 28 February 2014.
2. Judge Clapham reached his decision following a hearing at which the appellant did not appear. He proceeded with the hearing in the light of

her unexplained absence and of her solicitors having withdrawn due to lack of instructions.

3. On the information available to Judge Clapham, the procedure adopted and the resulting determination are impeccable. However, unknown to the Judge and to the respondent when the hearing took place on 21 February 2014, the appellant was committed to a mental hospital due to first episode psychosis from 19 February to 31 March 2014.
4. Through no fault of the First-tier Tribunal, circumstances have now been disclosed arisen which constructively amount to legal error. The respondent agreed that the appropriate course was to set aside the determination and proceed to another hearing.
5. No findings of the First-tier Tribunal are to stand. Under s.12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to remit the case to the First-tier Tribunal. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge D C Clapham SSC.



17 July 2014
Judge of the Upper Tribunal