



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

Appeal Number: AA/05767/2014

THE IMMIGRATION ACTS

Heard at Bradford

On 5th February 2015

**Decision & Reasons
Promulgated**

On 11th February 2015

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**SILVY ALEXANDER
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr M Diwnycz, Home Office Presenting Officer

For the Respondent: Miss A Hashmi, Counsel instructed by Blavo & Co
Solicitors

DECISION AND REASONS

1. This is the Secretary of State's appeal against the decision of Judge Jones made following a hearing at Bradford on 11th September 2014.

Background

2. The claimant is a citizen of Ethiopia born on 9th August 1987. She arrived in the United Kingdom on 7th December 2011 and claimed asylum on what

she now accepts was a false prospectus. During the course of her interview she disclosed that her fear of return to Ethiopia was not, as she had originally said, for political reasons but because of her sexuality.

3. It has always been acknowledged by the Secretary of State that if the claimant was found to be credible then she would be entitled to succeed in her appeal. Mr Diwnycz did not seek to resile from that position.
4. The judge took into account the clear Section 8 points in favour of the Secretary of State but said that they were not determinative and, on the basis of the evidence which he had heard both from the claimant and from her supportive witnesses, concluded that she was credible as to the events which led to her claim for asylum and as to her current sexuality.
5. The Secretary of State sought permission to appeal on the grounds that the judge had not fully engaged with the evidence. She says that the judge did not deal with the question of an arrest warrant said to have been issued in respect of the claimant. Furthermore, the judge said that he wondered whether the claimant could express the basis of her claim to a male agent when she was in a vulnerable position although in her witness statement the claimant said that, had she known she could claim asylum on account of her sexuality, she would have done so, which was inconsistent. There was also a discrepancy in the claimant's evidence but whether her husband had kept control of her travel documents. The judge had given undue weight to the evidence of the support group and counsellor witnesses.
6. Permission to appeal was granted by Judge Tiffin on 21st October 2014 for the reasons stated in the grounds.

Submissions

7. Mr Diwnycz relied on his grounds, which he admitted he could not put forward with any great force, and submitted that collectively the points raised in the grounds identified an error of law.
8. Miss Hashmi relied on her skeleton argument and submitted that the Grounds of Appeal were a simple disagreement with the decision. The Secretary of State knew why she had lost the case which was because the evidence of the claimant was accepted.

Findings and Conclusions

9. The grounds identify no material error in this determination. The Secretary of State's case is set out in full and properly considered. The judge had at the forefront of his mind the obvious difficulty for the claimant in this case which was that, initially, she deliberately sought to mislead the Respondent as to the true basis of her claim.
10. The judge properly reminded himself that Section 8 of the 2004 Act applied but it was not in itself determinative of credibility. He was entitled

to accept that the claimant had not made proper disclosure because she was frightened, but that did not inevitably mean that she should not be found to be credible.

11. The judge heard oral evidence from the claimant and from a number of witnesses who were supportive of her, corroborating her account and attesting to her vulnerability. An appellate Tribunal which has not heard the evidence will not lightly interfere with the judgment of a Tribunal which has heard and considered that evidence and made a reasoned judgment upon it.
12. The core of this matter is the claimant's sexuality, not whether there was an arrest warrant and not whether she had access to her travel documents. On that issue, the judge gave proper reasons for his decision and the grounds disclose no error of law.

Notice of Decision

13. The original judge's decision stands. The Secretary of State's appeal is dismissed.

No anonymity direction is made.

Signed

Date **5th February 2015**

Upper Tribunal Judge Taylor