



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

Appeal Number: AA/01614/2015

THE IMMIGRATION ACTS

Heard at: Birmingham

Decision & Reasons

On: 24 February 2016

**Promulgated
On: 8 March 2016**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

**MISS IA
(ANONYMITY DIRECTION MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E Rutherford of Counsel
For the Respondent: Mr Mills, Senior Presenting Officer

DETERMINATION AND REASONS

1. The appellant's appeal to the First-tier Tribunal was against the decision of the respondent dated 3 December 2014 to refuse her application for asylum and humanitarian protection in the United Kingdom. First-tier Tribunal Judge Prior dismissed the appellant's appeal in a determination promulgated on 30 May 2015.
2. Permission to appeal was granted by first-tier Tribunal Judge Murray who stated that it is arguable that the Judge when he referred to the standard of proof in immigration cases being on the balance of probabilities made a

material error of law when the standard of proof is lower, as being “real risk” and therefore the Judge used too high a standard of proof.

3. Ms Rutherford stated that the Judge used “the balance of probabilities” as the standard of proof required which has tainted his consideration of the appeal.
4. The Judge stated at paragraph 4, under the title “The Law” the following. “In immigration appeals the burden of proof is on the appellant and the standard of proof required is the balance of probabilities.”.
5. This was not an immigration appeal but an asylum and humanitarian protection appeal. Ms Rutherford could not point to me any particular paragraph in the determination where it became obvious that the Judge had applied the balance of probabilities standard of proof to a set of facts. She said, she cannot point me to a particular paragraph but stated that the Judge used the wrong standard of proof for all his findings.
6. The Judge however stated at paragraph 26 in conclusion, “it is my decision that the appellant would be at no real risk of persecution or serious harm, or of insufficient protection therefrom, on her return to Turkey.” This is the correct burden of proof.
7. It is clear to me that the Judge used a template for immigration appeals. Since this was not an immigration appeal, his setting out the standard of proof in immigration appeals was superfluous, unnecessary and a mistake. It however does not suggest to me that that is the standard that he used in considering the appellant’s asylum appeal. It is clear that at paragraph 26 the Judge had regard to the correct standard of proof, which is real risk. Permission to appeal was granted only on this ground and I find that it has no merit.
8. I find on my consideration of the determination that the Judge has given cogent grounds for not finding the appellant credible and her claim credible. He did not find that the appellant was a sufficiently high profile to be persecuted by the Turkish authorities on return. He stated that the appellant was a 17-year-old woman with a very low political profile indeed and this would not put at risk of persecution upon her return to Turkey.
9. Having considered the determination as a whole, I conclude that the Judge was entitled to find that the appellant was not entitled to asylum, humanitarian protection in the United Kingdom.
10. I accept that there is a mistake in the determination, in that the Judge refers to the burden of proof in immigration appeals which was wrong, but that does not amount to a material error of law. It is clear to me in

examining the reasoning of the Judge, he used the correct burden of proof in his analysis of the facts and the findings that from those facts.

DECISION

For the reasons given above, the determination of the First-tier Tribunal is upheld.

Appeal dismissed

Signed by

A Deputy Judge of the Upper Tribunal
Mrs S Chana

This 24th day of February 2016