



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: AA/05110/2015**

**THE IMMIGRATION ACTS**

**Heard at Birmingham Employment  
Centre  
On 9 February 2016**

**Decision and Reasons  
Promulgated  
On 12 February 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE McCARTHY**

**Between**

**HN  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mr G Harrison, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Preliminary**

*The First-tier Tribunal made an anonymity direction in relation to the appellants because of the nature of the case. I consider it appropriate to make a similar order in the Upper Tribunal under Procedural Rule 14(1) to prohibit the disclosure or publication of any matter likely to lead members of the public to identify the appellant. To give effect to this order the appellant is to be referred to by the initials above.*

1. The appellant was born on 28 August 1979 and is a citizen of Gambia. She appeals against the decision and reasons statement of First-tier Tribunal

Judge Pirotta that was promulgated on 24 June 2015. Although expressed at length, she has three grounds of appeal.

- a. She complains that the judge refers at several places to Ghana rather than Gambia. This is of particular concern in paragraphs 32 and 35 where the judge refers to background country information.
- b. She complains that the judge acted unfairly by preventing her raising new issues during the hearing that related to the conduct of the Home Office interviews, pointing out that one of the records of interview had only been disclosed at the hearing.
- c. She complains that the judge used stereotyping when assessing her sexual orientation and therefore did not examine the appellant's evidence objectively.

2. Permission to appeal was granted by Upper Tribunal Kopieczek on 3 September 2015. At the end of his grant he issued the following directions.

No later than 7 days before the hearing before the Upper Tribunal the following must be filed and served.

(i) a witness statement from a person from the solicitors representing the appellant setting out when the appellant's solicitors were first served with a) the screening interview and b) the asylum interview.

(ii) a witness statement from the appellant setting out in detail the points of contention in relation to the accuracy of the screening and asylum interviews.

(iii) a skeleton argument on behalf of the appellant which deals with the question of the materiality of any error of law raised in the grounds.

3. There has been no reply to any of these directions.
4. Notice of hearing was issued to the parties on 18 January 2016. On 23 January 2016, the appellant's solicitors informed the Tribunal that they were no longer representing the appellant and advised that they had "been trying to locate and correspond with the client but to no avail."
5. In light of this information and having regard to rule 38 of the 2008 Procedure Rules, being satisfied that notice of hearing had been properly given and noting that there were no other reasonable steps the Tribunal could take to notify the appellant of the hearing, I decided to proceed with the hearing in the absence of the appellant.
6. The lack of instructions explains why the solicitors failed to comply with directions. But this leaves me with the grounds only to consider. Mr Harrison addressed me in respect of each ground but because I have decided to dismiss this appeal there is no need for me to recount his submissions in detail. I consider each ground of appeal in turn.
7. With regard to the first ground, although I accept that the judge erroneously refers to Ghana at least four times in her decision, it is also evident that she refers correctly to Gambia at other junctures. I can find nothing in the decision or reasons that suggests that the judge had evidence about Ghana in mind. It is clear that the judge rejected the appellant's claim because of internal inconsistencies and credibility issues

rather than because of issues regarding the treatment of LGBT persons in Gambia. In fact, the grounds fail to identify how these slips (which are most unfortunate and unprofessional) affected the outcome. For these reasons, I find the first ground is not made out.

8. The second ground is disposed of by reference to paragraph 19 of the judge's decision. It records:
  19. I determined that the Appellant should not be permitted to raise the new issues. Counsel for the Appellant did not seek an adjournment so that the Secretary of State was not taken by surprise, but agreed not to pursue these arguments in this hearing or any further appeal.
9. I do not know why a party should seek to suggest that a judge has erred in law by accepting a concession such as that given in this case. It may be that the appellant's solicitors were not happy with the approach taken by counsel (Mr Jussab) and are seeking to re-open the issue. However, since they instructed Mr Jussab and since he had conduct of the matter, they are stuck with his concession. I cannot find any fault in the way the judge proceeded given this concession and I find there is no error of law.
10. The third ground is also unproven. The judge does not use any stereotyping when making her decision. When assessing the evidence to decide if the appellant was a lesbian as claimed the judge noted numerous inconsistencies and implausibilities. The author of the grounds misreads the judge's findings. When read in context it is clear that Judge Pirotta found it implausible that the appellant would attend a Pride event in Manchester but not more local events. This was an additional reason for finding against the appellant; other parts of her account had been rejected because of inconsistency. Read as a whole, there is no legal error.
11. As the appellant has failed to show there is legal error in the decision and reasons, they are upheld.

### **Decision**

The decision and reasons of Judge Pirotta do not contain any legal error and her decision is upheld.

Signed

Date

Judge McCarthy  
Deputy Judge of the Upper Tribunal