



IAC-FH-NL-V1

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

Appeal Number: AA/08305/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 4<sup>th</sup> February 2016**

**Decision & Reasons  
Promulgated  
On 11<sup>th</sup> April 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE RENTON**

**Between**

**HKM  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms R Moffatt Counsel instructed by Sutovic & Hartigan Solicitors

For the Respondent: Mr D Clarke, Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. The Appellant is a female citizen of Cameroon born on 15<sup>th</sup> September 1980. The Appellant arrived in the UK on 24<sup>th</sup> March 2013 with entry clearance and was given leave to enter until 19<sup>th</sup> August 2013. The Appellant applied for asylum on 10<sup>th</sup> July 2013. That application was

refused for the reasons given in the Respondent's letter of 30<sup>th</sup> September 2014. The Appellant appealed, and her appeal was heard by First-tier Tribunal Judge N Bennett (the Judge) sitting at Hatton Cross on 19<sup>th</sup> June 2015. He dismissed the appeal for the reasons given in his Decision dated 17<sup>th</sup> July 2015. The Appellant sought leave to appeal that decision, and on 22<sup>nd</sup> October 2015 such permission was granted.

### **Error of Law**

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside. It was the Appellant's case that she was at risk on return to Cameroon because she was a lesbian. She had attended a meeting of a woman's group at the Hilton Hotel in Yaounde in April 2013. Following this meeting, the Appellant had commenced a relationship with a woman known as Cathy. In December 2013 Cathy had been involved in an altercation with local people which had been reported to the police. On 10<sup>th</sup> January 2013 the Appellant had received a summons to attend a police station after which she had been detained for three days and questioned about her sexuality. During her detention, she had been beaten by the police and other inmates and raped. After her release, she had been attacked again on 4<sup>th</sup> February 2013 and knocked unconscious. As a consequence she had spent three days in hospital. Two days after her release, the Appellant had received a second summons to attend a police station. Instead of going, she had fled the country.
3. She had suffered from Post Traumatic Stress Disorder (PTSD) and was suicidal about the thought of returning to Cameroon.
4. The Judge dismissed the appeal because he did not find credible much of the Appellant's account. He noted that homosexuality was contrary to the Cameroon Penal Code, and he considered a medical report of Dr Cohen. He accepted that the Appellant had at some time been beaten or whipped, raped, and burnt with cigarettes, but he found that these injuries and the Appellant's PTSD may have been caused by means other than those claimed by the Appellant, and found that he was not satisfied that the Appellant was a lesbian who was at risk on return. He further found that the Appellant would not be deprived of any appropriate medication during the removal process and therefore that there was not any real risk of her committing suicide. In reaching his conclusion as to the credibility of the Appellant, the Judge identified a number of inconsistencies in the Appellant's evidence which he also found to be implausible in places. He took into account the fact that the Appellant had delayed in applying for asylum in the UK.
5. At the hearing, Ms Moffatt referred to the grounds of application and her Skeleton Argument and argued that the Judge had erred in law in his findings. The Judge had failed to engage with the detailed analysis of the Appellant's injuries and medical condition given by Dr Cohen in his report. Dr Cohen had expressed an opinion that the Appellant's injuries could not have been caused in any way other than that given by the Appellant.

Further, when deciding the issue of credibility, the Judge had not considered the effect of PTSD on the Appellant's memory. The Judge had resorted to speculation when deciding that some of the Appellant's account was implausible.

6. Ms Moffatt then argued that the Judge had further erred in law by failing to take account of the medical evidence from Dr Orlin Michev, and the fact that the Appellant was receiving therapy from Freedom from Torture and Islington Mind.
7. In response, Mr Clarke referred to his Rule 24 response and argued that there had been no such error of law. The Judge had given a number of reasons for his finding as to credibility which was a finding open to him on the evidence before him. The evidence of Dr Michev did not take the Appellant's case any further than that explained by Dr Cohen. The Judge had accepted that the Appellant suffered from PTSD and that she had received injuries in some way in Cameroon. The Appellant had stated herself at pages 41 to 43 of her Bundle that she wanted to live.
8. I find that there was an error of law in the decision of the Judge which I therefore set aside. It is true to say that the Judge carried out a thorough analysis of the evidence of the Appellant and also that of Dr Cohen and that he gave a number of cogent reasons for not being satisfied as to the Appellant's credibility. However, the Judge omitted to consider all of the medical evidence. However, he did not deal at all with the evidence of Dr Michev which is highly relevant because it confirms the cause of the Appellant's injuries and describes features of her PTSD such as flashbacks and nightmares which confirms the cause of her PTSD. In my view this evidence should have been dealt with by the Judge when considering credibility, and it was an error of law for him to omit to do so.
9. I did not proceed to re-make the decision. I decided to remit the appeal to the First-tier Tribunal for the decision to be re-made there in accordance with paragraph 7.2(b) of the Practice Statements. None of the findings of fact and as to credibility made by the Judge will be preserved for the purpose of the re-made decision.

### **Decision**

10. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
11. I set aside that decision.
12. The decision will be re-made by the First-tier Tribunal for which purpose none of the findings of fact and as to credibility made by the Judge will be preserved.

### **Anonymity**

13. The First-tier Tribunal made an order for anonymity which I continue.

Signed  
Deputy Upper Tribunal Judge Renton

Date