



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/06621/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 19 October 2017

Decision and Reasons Promulgated
On 20 October 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

I A K NDOW
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Devlin, Advocate, instructed by Livingstone Brown, Solicitors
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The respondent refused the appellant's claim for reasons explained in her letter dated 10 June 2016.
2. First-tier Tribunal Judge Bradshaw dismissed the appellant's appeal for reasons explained in his decision promulgated on 18 April 2017.
3. In terms of the Tribunal Procedure (UT) Rules 2008, rule 23 (1A), the appellant's application for permission to appeal now stands as the notice of appeal to the UT. The grounds therein, in summary, are these:

Ground 1

At ¶82 the judge said, “However, the appellant was not ‘tortured’ as claimed by her until 17 January 2013 so the reason her husband did not come in September 2012 could not have been that he learned that his wife had been arrested and tortured”. The definition of torture is not limited to physical torture as experienced by the appellant when detained on 17th of January 2013 but [includes] mental torture and the appellant has detailed various occasions when she was detained for the weekend. The remit of article 3 is wider than simply torture and includes... other forms of inhumane and degrading conditions.

In any event, the appellant explained that her husband was informed of her house being repossessed by the authorities and this was what prompted him not to return to the Gambia (¶29-30, page 10, appellant’s inventory of productions, bundle 1).

Ground 2.

The judge erred in law in placing no weight on the “attestation” from the appellant’s mother and brother (¶108 of the decision) and refusing to give any weight to two bail documents ... (¶109) as these documents corroborated the appellant’s reasons for seeking protection. These documents should have been considered individually and to their own merits ... as opposed to concluding “these documents have been produced to improve the appellant’s chances of success ...”.

4. Mr Matthews did not concede that there was any merit in ground 1. On ground 2, he said that while the fault might be only that the decision is poorly expressed at ¶108-9, it does give the impression that adverse conclusions have been reached before turning to the documentary evidence, a structural flaw which renders the decision unsafe.
5. The following outcome was agreed between the parties.
6. The decision of the FtT is **set aside**. None of its findings are to stand, other than as a record of what was said at the hearing.
7. The nature of the case is such that it is appropriate in terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to **remit the case to the FtT** for an entirely fresh hearing.
8. The member(s) of the FtT chosen to consider the case are not to include Judge Bradshaw.
9. No anonymity direction has been requested or made.



19 October 2017
Upper Tribunal Judge Macleman