



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

Appeal Number: PA/06605/2017

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 27 March 2017**

**Decision and Reasons  
promulgated  
On 28 March 2018**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**MYG  
(anonymity direction made)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: no appearance

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

**ERROR OF LAW FINDING AND REASONS**

1. The appellant appeals with permission against a decision of First-tier Tribunal Judge Malik, promulgated on 22 September 2017, in which the Judge dismissed the appellant's appeal on protection and human rights grounds.
2. At [5] the Judge records the following:

**“Preliminary matters**

5. There was no attendance by the appellant or a representative on her behalf. The appellant’s former representatives letter of 17 August 2017 stated there had been a breakdown between the appellant and themselves and the appellant required time to seek alternative representation. This application for an adjournment was refused on 18 August 2017 and there was no subsequent application before me, nor any reason provided for the non-attendance of the appellant at the hearing. There was nothing to suggest that if the appeal was adjourned to a later date the appellant would attend and/or be represented. I therefore proceeded with the appeal and heard submissions only from the respondent’s representative.”
3. The appellant sought permission to appeal claiming she received no notification of the refusal of the adjournment request via her representatives and was waiting for the next hearing notice which she claims never to have received; instead receiving the decision currently under challenge. The appellant criticises a number of the findings made.
4. Permission was granted by another judge the First-tier Tribunal for the following reasons:
  - “2. The appellant is not represented and her ground of appeal is effectively that a procedural unfairness, namely: that prior written application for adjournment through solicitors having been refused, and she not having been informed of the same, her solicitors having ceased to act for her; she was not aware of the date of the hearing, presuming it to have been adjourned, and did not attend the hearing.
  3. This is not an explanation which I can find at this stage to have been established on the papers before me but it is a fairly arguable point which, if established, might serve to show a procedural unfairness being a potentially material error of law.”
5. Two issues arise at this stage, the first being that as the appellant was aware of the hearing before the First-tier Tribunal and, despite making the adjournment application, received no notice that the hearing had been cancelled or that there was any reason why she did not need to attend, no arguable procedural error arises solely because the appellant appears to have assumed that because of the adjournment request was being made it would have been granted.
6. In any event permission has been granted. Before the Upper Tribunal the appellant failed to attend. The address the tribunal has is that provided by the appellant in her documents, including the application for permission to appeal to the Upper Tribunal. It is noted that the notice of today’s hearing setting out the date, time and venue of the hearing was sent to the appellant on 20 February 2018 to the

appellants last stated correspondence address. I am satisfied that there has been valid service of that notice in accordance with the procedure rules. There is no evidence of any correspondence being returned as not having been delivered.

7. There is no application for an adjournment and no explanation provided for why the appellant failed to attend today's hearing. It is the appellant's application and it is for her to make out whether the Judge has made any arguable legal error.
8. The grant of permission does not identify any other basis on which permission is granted other than any alleged procedural irregularity. A reading of the determination does not disclose any obvious points necessitating permission being granted even though the appellant has failed to attend to prosecute her application.
9. Based on information available to the Upper Tribunal, and in light of the appellants clear failure to engage with the appeal process, even though it is her own application for permission to appeal which is under consideration, I find it not made out that the First-tier Judge has been shown to have erred in law in a manner material to the decision to dismiss the appeal. On the basis of the evidence it is arguable the findings made by the Judge are within the range of findings reasonably open to the Judge.

**Decision**

**10. There is no material error of law in the Immigration Judge's decision. The determination shall stand.**

Anonymity.

11. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson

Dated the 27 March 2018