



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

Appeal Number: PA/02429/2019

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 23rd July 2019**

**Decision & Reasons Promulgated
On 5th August 2019**

Before

Upper Tribunal Judge Chalkley

Between

**SAMOUKA [B]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr Bates, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Guinea who was born on 4th March 2000 and is therefore 19 years of age. He made application to the Secretary of State for recognition as a refugee but the Secretary of State refused his claim on 6th March, 2019. As a result the appellant appealed to the First-tier Tribunal and his appeal was heard by First-tier Tribunal Judge Foudy in Manchester on 11th April, 2019.
2. Immigration Judge Foudy dismissed the appellant's appeal on asylum grounds, humanitarian protection grounds and also on human rights

grounds. On 5th June, 2019 First-tier Tribunal Judge Loke granted permission to appeal and in doing so said this:-

“3. The appellant’s grounds are summarised as follows:

- a) The appellant requested a Konyanka interpreter, and a Mandinke interpreter attended. I have reviewed the Record of Proceedings. The answers given by the appellant were direct and thorough answers to all questions put to him. Furthermore, the appellant was prepared to give evidence in English in any event.
- b) It is however arguable that [18] of the Judge’s decision do not make it clear what her findings were on each part of the appellant’s claim (sic). Furthermore, the Judge did not appear to consider the appellant was a child when he entered the United Kingdom, despite the fact that it is expressly relied upon in submissions.
- c) With respect to the Judge’s failure to consider the appellant’s medical condition there was no appellant’s bundle filed, although I note the appellant’s medical issues were considered by the respondent’s decision letter and, therefore arguably ought to have been addressed”.

3. The appeal was listed for hearing before me at 10.00 a.m. this morning. I put this matter back to the end of my list, since my other appellants were all represented. At 11.55 there was no appearance by or on behalf of the appellant. I am satisfied that the appellant was given notice of the date, time and place fixed for the hearing of the appeal by the Tribunal by notice sent by first class prepaid post on 12th June, 2019. Given that there was no explanation for the appellant’s non-attendance I concluded that I was required to proceed with the hearing of the appeal in the appellant’s absence.
4. The first point I need to make is that the appellant did not raise a human rights appeal. Notwithstanding the fact that he did not raise one, First-tier Tribunal Judge Foudy concluded, in any event, that there was no risk that the appellant’s rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms would be denied to him were he to be returned to Guinea.
5. In relation to the first ground it is clear from having read the judge’s Record of Proceedings that the appellant understood the questions put to him and appears to have given clear and full responses to those questions. He does not at any stage indicate that he does not understand any particular question. In fact it appears that the appellant can speak and understand English. I do not believe that the First-tier Tribunal Judge materially erred in law by proceeding with the hearing with a Mandinke interpreter. The Record of Proceedings clearly indicates that the appellant spoke English and that the appellant was quite happy to speak to the interpreter to make sure that he and the interpreter understood each other. They both indicated to the judge that they did.

6. The second challenge suggests that the judge did not give reasons for her findings. With very great respect it is clear from the determination (paragraph 18) that she gave numerous reasons for finding the appellant not to be credible. It is also suggested that she failed to take into account that the appellant was a child when he entered the United Kingdom. With very great respect, he was 19 at the time he appeared before the judge and it is quite clear from the determination that the judge was well-aware of his age at the time of the events he described.
7. It is suggested that the judge should have taken account of the appellant's medical condition. With very great respect, no medical evidence was submitted to the judge. The medical evidence referred to is copies of letters which were sent by previous advisers to the Home Office. The appellant was suffering from what his GP describes as being "aches and pains". It referred to investigations having been completed and the appellant having been referred to neurology "but no significant diagnosis was found." There was nothing anywhere else in the documentation to indicate that the appellant was unfit.
8. Given that the appellant did not appear I did not trouble Mr Bates to address me.
9. I am satisfied that the determination does not contain any material error of law on the part of the First-tier Tribunal Judge and I uphold her decision. The appellant's appeal is dismissed.

Richard Chalkley

Upper Tribunal Judge Chalkley

26th July 2019

TO THE RESPONDENT
FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

Richard Chalkley

Upper Tribunal Judge Chalkley

26th July 2019