



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

Appeal Number: PA/02518/2019

THE IMMIGRATION ACTS

**Heard at Manchester
On 5 August 2019**

**Decision & Reasons Promulgated
On 20 August 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**GK
(Anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Greer of Counsel

For the Respondent: Mrs Aboni, a Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Albania who was born on 15 November 1987. She appealed against the decision of the Respondent of 4 March 2019 to refuse her protection claim. I make an anonymity direction to preserve the anonymity of the Appellant who has, as will be seen, an outstanding protection claim.
2. The matter came before Judge Devlin at a hearing in Manchester on 16 April 2019. In a lengthy decision, after consideration of the evidence, the Judge dismissed the appeal. Permission to appeal was granted on 10 June 2019 on three grounds by Judge Pedro. The first was that Judge Devlin did

not make reference to or conscientiously apply the guidance on vulnerable witnesses, secondly there was procedural unfairness in not putting previously unraised credibility issues to the Appellant, and thirdly he inappropriately required independent corroboration of aspects of the account.

3. In relation to Ground 1, Mr Greer stated that at the outset of the hearing before Judge Devlin an agreement had been reached that the Appellant is entitled to be treated as a vulnerable witness. Mrs Aboni stated that in the papers she had there was no record of an agreement being made from her colleague who appeared at that hearing. I checked the Record of Proceedings of the hearing on the Tribunal file. I pointed out that there was no record of any preliminary discussion whatsoever. It simply identifies that the case started at 12.05 and then evidence-in-chief commencing by the Appellant adopting her witness statement.
4. In the absence of any note on the Record of Proceedings or contemporaneous note from the Respondent's then representative to the contrary, and given Mr Greer's professional obligations, I accept that what he said was agreed was in fact agreed.
5. Mrs Aboni conceded that, given my ruling on Ground 1, there was plainly a material error of law which infected the whole decision and the other grounds need not be addressed.
6. As a general comment, the decision from Judge Devlin is 41 pages long and has 258 paragraphs. Much of it is wholly unnecessary regurgitation of uncontested or irrelevant facts, and recitation of screeds of jurisprudence. This does not assist the loser understand why they have lost, or foster confidence that the Judge has understood the Court of Appeal's concern about excessively long decisions that lack focus.
7. I therefore find a material error of law. I set the decision aside. The Appellant has not had a fair hearing. The matter must therefore be returned to be heard do novo in the First-tier Tribunal sitting in Manchester. It will not to be heard by Judge Devlin.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or Court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to Contempt of Court proceedings.

Deputy Upper Tribunal Judge Saffer
14 August 2019



TO THE RESPONDENT - FEE AWARD

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

Deputy Upper Tribunal Judge Saffer
14 August 2019

A handwritten signature in black ink, appearing to read "Law Saffer". The signature is written in a cursive style with a large initial "L" and a period at the end.