



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: UI-2022-002733  
PA/55025/2021 (IA/15248/2021)**

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On the 21 October 2022**

**Decision & Reasons Promulgated  
On the 16 November 2022**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**NLMB**  
(Anonymity direction made)

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Jagadesham instructed by Ison Harrison Solicitors.  
For the Respondent: Ms Young, a Senior Home Office Presenting Officer.

**DECISION AND REASONS**

- 1.** The appellant appeals with permission a decision of First-tier Tribunal Judge Hillis ('the Judge') promulgated following a hearing at Bradford on 29 March 2022 in which the Judge dismissed the appellant's appeal

- against the refusal of his application for international protection or for leave to remain in the United Kingdom on any other basis.
2. Having set out the evidence and submissions the Judge's findings of fact start at [42] in which the Judge notes the positive decision from the National Referral Mechanism. The Judge undertakes what at first blush appears to be a detailed analysis of the evidence provided before dismissing the appeal.
  3. The appellant sought permission to appeal on two grounds, Ground 1 asserting the Judge had departed from the evidence that was available or introduced his own evidence without justification. There is specific reference to [61] of the Judge's decision where there is reference to the US State Department Trafficking Report 2020 whereas the appellant had provided in the bundle the report for 2021 of which there is no mention. The grounds assert the Judge erred as it was not clear why the Judge had taken it upon himself to seek out an older version of the report when considering risk on return at the relevant date, namely the date of the hearing. It is also asserted the Judge's assessment of the contents of the report is inaccurate and it is said to be unclear why the Judge only referred to this report when further objective evidence was submitted to the Tribunal on the issue of impunity of state agents within Guinea, much of which was highlighted in the Key Passage Index. Ground 2 asserts the Judge failed to make a finding on a core issue for although at [51] Judge found there is no risk of re-trafficking as the appellant claimed he did not fear the individual who trafficked him to the UK, M, the cases but before the Judge indicated a fear of re-trafficking generally; not limited to that of the risk of re-trafficking at the hands of M. The Grounds assert that the wider scope of the trafficking risk was made clear to the Judge during the hearing, including at the submission stage, and that the Judge's findings regarding to re-trafficking focused solely upon the risk from M.
  4. Permission to appeal was granted by another judge of the First-tier Tribunal on 13 June 2022 the operative part of the grant being in the following terms:
    3. I am satisfied that the grounds do identify arguable errors of law in the decision of Judge Hillis, for the reasons given. In particular, I consider it strongly arguable that the consideration of the background evidence is inadequate, referring solely to a 2020 report despite the fact that the country situation had changed significantly in September 2021 following a military coup, and even though the appellant's bundle contained a number of more recent reports dealing with the current situation following the coup.
    4. Permission to appeal is therefore granted.

### **Error of law**

5. Whilst reference to 2020 as opposed to 2021 may be explained as a typographical error a challenge to that report goes much wider asserting the Judge has misrepresented the contents of the same as noted above.

6. In any event, the errors as pleaded in the ground seeking permission to appeal and upon which permission to appeal was granted were conceded before me by the Secretary of State's representatives in relation to both the issue of consideration of an incorrect report, failure of the Judge to consider the country information as a whole (which could not be determined from a reading of the determination), and failure to deal with the question of the wider risk of re-trafficking if the appellant is returned to Gambia.
7. In light of the concession I find it is appropriate to set aside the decision of the Judge. I find there shall be no preserved findings. I find that in light of the issues of failure to consider all the available evidence and make adequate findings upon the appellant's case, upon which extensive fact-finding will now be required, it is appropriate in all the circumstances, having considered the practise direction, overriding objective, and principle of fairness, for the appeal to be remitted to the First-tier Tribunal sitting at Bradford for it to be heard afresh by a judge other than Judge Hillis.

**Decision**

8. **The Judge materially erred in law. I set the decision aside. This appeal shall be remitted to the First-tier Tribunal (IAC) sitting at Bradford to be heard afresh by a judge other than Judge Hillis.**

Anonymity.

9. 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. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

Signed.....  
Upper Tribunal Judge Hanson

Dated 24 October 2022