



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-004110

On appeal from PA/59780/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 14<sup>th</sup> of January 2025

**Before**

**UPPER TRIBUNAL JUDGE Gleeson**

**Between**

**F D**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Carlton Williams, legal representative with Fountain Solicitors

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

**Heard at Field House on 7 November 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**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.**

**DECISION AND REASONS**

**Introduction**

1. The appellant challenges the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 16 October 2023 to refuse her

international protection pursuant to the Refugee Convention or leave to remain on human rights grounds or leave to remain pursuant to paragraph 276ADE of the Immigration Rules HC 395 (as amended), or outside the Rules on Article 8 ECHR grounds.

2. The appellant is a citizen of Senegal. She is a Muslim, from the Wolof tribe. Her parents are both dead, on her account, but she does have a brother who is in his early fifties. The appellant came to the UK on 13 September 2014, transiting in Madrid, in Spain, an EU safe country. She entered the UK on a visit visa then remained here unlawfully for over six years before claiming asylum.
3. **Mode of hearing.** The hearing today took place by video link over CVP. There were no technical difficulties. I am satisfied that all parties were in a quiet and private place and that the hearing was completed fairly, with the cooperation of both representatives.
4. For the reasons set out in this decision, I have come to the conclusion that this appeal must be dismissed.

### **Background**

5. The main basis of the appellant's case is that she fears her ex-husband, who subjected her to domestic violence while she lived with him in Senegal. She also considers that her various health problems would be better treated here than in Senegal.
6. In her witness statement of 5 August 2021, the appellant said that her former husband was 'well connected' and that she depended on him financially. They married in 2011 or 2012, but her husband already had another wife, whose existence he did not disclose when he married the appellant.
7. Her husband, a travel agent, sent her on ahead and said that he had a meeting to attend and would then join her here for a holiday. After she arrived, he told her that he would not come, and he has since married again. Her former partner told the appellant in September 2014 that she should not return to Senegal as she was 'a menace to his first wife'. She thought that her former husband might have retired from his job by now.
8. The appellant's brother lives in the UK, with his own family. In her asylum interview, the appellant said that she had been in a relationship in the UK, which had ended.
9. Since coming to the UK, the appellant has had her thyroid removed. She has mobility difficulties, with stiffness in her hands and difficulty swallowing after the thyroidectomy. She also has intermittent high blood pressure. She also has a diabetes diagnosis, which is more recent.
10. The appellant did not claim asylum until 25 May 2021, over 6 years after her arrival as a visitor. Consideration of her claim appears to have been delayed during the Covid-19 pandemic, with an initial interview in May 2021, a full asylum interview in September 2023 and a refusal letter on 15 October 2023.

### **Refusal letter**

11. The respondent accepted the appellant's claimed nationality (Senegalese), age (54 years old) and her identity. She also accepted the past history of threats from the appellant's former husband, her medical problems, and the treatment she was receiving. Section 8 was not applied to reduce her credibility as she had not been questioned about why she came via Madrid.
12. The appellant had not sought to access domestic protection by approaching the police about her husband's behaviour. There was a generally effective police force in Senegal, and civil judicial procedures and remedies there. The respondent considered that the appellant could relocate safely elsewhere in Senegal to avoid any problems with her former husband.
13. There was no private and family life issue: the appellant did not have a partner, dependent children or dependent relatives in the UK. Her medical issues were not such as to require leave outside the Rules: the standard in *AM (Article 3, health cases) Zimbabwe* [2022] UKUT 131 (IAC) [22 March 2022] was not met.

### **First-tier Tribunal decision**

14. The First-tier Judge dismissed the appeal. He did not find the appellant's later claim that her husband was a man of influence in Senegal to be credible: he found that to be an embellishment. His core findings are at [12]-[16]:

"12. The last time the Appellant spoke with her husband was a month after she arrived in September 2014. The plan was for the husband to join the Appellant in the UK but he chose not to come. The Appellant said that the husband threatened her not to return to Senegal and the explanation given by the Appellant is that she was a menace to his first wife.

13. I find it implausible the husband was [sic] carry out any threat to the Appellant if he had friends in high places, because had he wished to kill her he could have done this in Senegal, rather than send her to the UK, and if he has friends in such high places he would have been protected. This is one of the reasons the Appellant fears returning to her country. The Appellant claims the police would not act upon any complaint made by her and this is why she did not report it to the police. I do not find the husband has any influential friends, or any influence over people, and he is simply a normal travel agent who may be retired now as she said.

14. I find there is a sufficiency of protection given there is a functioning police force but, in any event, there is no risk of any future harm from the husband. The Appellant speculates when she states that the police will only act if the victim has money.

15. I find it is reasonable for the Appellant to internally relocate. I do not accept her argument that the country is small and people who know her would tell the husband, because she is returning ten years later, and even if they tell the husband, I find that if the Appellant was a menace to his first wife, with whom he wishes to spend time with, and she is living elsewhere, he has no incentive to track the Appellant down. "

15. The appellant appealed to the Upper Tribunal.

### **Permission to appeal**

16. The grounds of appeal are a reasons challenge. The appellant asserts that the allegation that her former husband was influential was made in her witness

statement of 5 August 2021; that at [15], the First-tier Judge found her asylum claim was on medical grounds (which is not accurate, see above); that the Judge's findings on sufficiency of protection are unsustainable, based on the country evidence of 'widespread domestic violence against women in Senegal and ...obstacles to female victims seeking protection, justice and support' and that insufficient weight was given to her private life in the UK and her medical troubles. Finally, the appellant challenges the support which her brother and cousin could give with reintegration into Senegal, where neither of them now lives.

17. Permission to appeal to the Upper Tribunal was granted by First-tier Judge Gumsley in the following terms:

"3. Whilst I acknowledge that in the asylum interview the Appellant appears to have said that her husband had no influence, it is arguable that the FtT Judge mistakenly considered the Appellant's assertion that her husband was indeed influential, noting her comment that he had 'friends in high places,' had only been made at the hearing, was new and an embellishment, and in so doing had not had regard to this assertion having been made previously (some 3 years prior) in her first interview. However, I do not understand what is being asserted by the Appellant as to what the FtT Judge said in #15, as that assertion does not appear to be correct.

4. It is arguable that the FtT Judge did not have any or adequate regard to the external evidence provided, and consequently provided inadequate reasons for finding that there was sufficiency of protection.

5. It is arguable that the FtT Judge's assessment of Article 8 was inadequate, as asserted in the grounds, and not properly and fully reasoned."

### **Rule 24 Reply**

18. The respondent did not file a Rule 24 Reply.

19. That is the basis on which this appeal came before the Upper Tribunal.

### **Upper Tribunal hearing**

20. The oral and written submissions at the hearing are a matter of record and need not be set out in full here. I had access to all of the documents before the First-tier Tribunal.

21. For the appellant, Mr Williams relied on the grounds for review, arguing that the First-tier Judge's credibility finding was unsafe. He also drew my attention to an undated letter from Abiodun Babajide, the appellant's social worker from 5 August 2021. That letter referred to support from a cousin, who paid the appellant's rent for a time, and to a relationship with an ex-partner in the UK, which had now ended.

22. Mr Williams argued that the First-tier Judge's decision lacked anxious scrutiny and that the findings made on international protection were inconsistent with the evidence before the Judge. The appellant would also rely on:

- (i) a letter from Mrs Parveen dated 20 November 2023, confirming that the appellant, who was 'in difficulties with her ex partner' had stayed

with Mrs Parveen without paying rent, and had helped Mrs Parveen with her new baby;

- (ii) a letter from the appellant's GP on 16 November 2023, but accepted that it made no mention of mobility difficulties; and
- (iii) a news report dated 18 August 2016, recording a Senegalese woman being fined for filming a police officer eating a traffic violation notice after asking for, and receiving, a bribe from the woman.

23. Mr Williams asked me to allow the appeal.

24. For the respondent, Mr Tan noted the difficulty regarding the 2021 witness statement but argued that in any event, the alternative finding at [12]-[13] was sufficient to permit the appeal to be dismissed by the First-tier Judge. The 2016 letter was a single instance and was a traffic offence, not domestic violence. The letter from Mrs Parveen made no mention of mobility issues: on the contrary, the appellant had been willing and able to help with a newborn baby in exchange for her accommodation.

25. Mr Tan asked me to dismiss the appeal.

## Conclusions

26. The Secretary of State has accepted the threats said to have been made by the appellant's husband, and her medical history. That engages paragraph 339K of the Rules. However, the appellant has not challenged the First-tier Judge's finding that internal relocation was available to her within Senegal. On that basis alone, this appeal fails.

27. Regarding the challenge to her former husband's influence outside the home area, the appellant's submissions are disingenuous. The statement that he is 'influential' in the original witness statement was put to the appellant in her asylum interview on 28 September 2023 but she resiled from it. The asylum interview took place two years after the witness statement in which the appellant said that her former husband was 'well connected'. The appellant was asked directly about that statement at questions [36]-[37]:

"36. **Question (required).** You told us that your ex-husband was influential in Senegal what kind of influence did he have?

36. **Response (required).** No he was only a normal person with a normal salary living a normal life.

37. **Question (required).** So to clarify, [he] has no influence or power in Senegal and is a normal citizen of Senegal?

37. **Response (required).** Yes."

28. The appellant told the interviewer that her only brother in Senegal now lived in Guinea. It is unclear whether that is the same brother who now lives in the UK. The rest of the interview was concerned with her health problems, and the appellant's wish to stay close to her UK brother and her nieces and nephews. It was unarguably open to the First-tier Judge to find that the reintroduction of the ex-husband's alleged influence at the hearing was an embellishment going to credibility.

29. As regards the assertion in the grounds of appeal that the appellant said in her screening interview that she feared her previous partner, she also said that 'he

told me that we are finished so I don't know what he will do to me'. The evidence seems clear: both parties have moved on, the appellant to a short lived relationship in the UK, and her former husband by taking a different second wife, as well as his first wife. She has not heard from him for more than 10 years.

30. The First-tier Tribunal is recognised as a specialist fact-finding Tribunal and the Upper Tribunal is required to exercise judicial restraint in its oversight of the First-tier Judge's reasoning: see *Ullah v Secretary of State for the Home Department* [2024] EWCA Civ 201 at [26] in the judgment of Lord Justice Green, with whom Lord Justices Lewison and Andrews agreed.
31. The Upper Tribunal may interfere with findings of fact and credibility only where such a finding is 'plainly wrong' or 'rationally insupportable': see *Volpi & Anor v Volpi* [2022] EWCA Civ 464 (05 April 2022) at [2]-[5] in the judgment of Lord Justice Lewison, with whom Lord Justices Males and Snowden agreed.
32. The challenges to the Judge's findings in this appeal do not reach the high standard set both in *Ullah* and in *Volpi*, and are no more than a vigorous disagreement with conclusions which were unarguably open to the Judge for the reasons given in the decision. There is no error of law in the First-tier Tribunal's reasoning.
33. This appeal is dismissed.

### **Notice of Decision**

34. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Judith Gleeson  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Dated: 6 January 2025**