



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: AA/00526/2014**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 April 2015**

**Determination Promulgated  
On 28 May 2015**

**Before**

**DEPUTY JUDGE DRABU CBE**

**Between**

**H B D  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance by or on behalf of the Appellant.

For the Respondent: Mr P Nath, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a female national of the Democratic Republic of Congo. Following the refusal of her application for grant of asylum in the United Kingdom and the respondent's decision to give directions for her removal to the DRC, the appellant's appeal brought under Section 82 of the Nationality, Immigration and Asylum Act 2002 was heard at Taylor House by First Tier Judge Talbot on 15 December 2014. The appellant was present at the hearing and was represented by a Counsel. Judge Talbot heard oral evidence from the appellant as well as submissions from representatives of the parties. For reasons

given in his determination promulgated on 30 December 2014, he dismissed the appeal.

2. The appellant sought and was granted permission to appeal to the Tribunal by another First Tier Tribunal Judge. In her decision granting permission, the Judge said, "On reading the decision it is arguable that the Judge commenced his assessment of credibility from the wrong starting point i.e. by failing to first consider the albeit limited medical evidence available re the alleged rape (see: JL (medical reports - credibility) China [2013] UKUT 00145 (IAC). In any event, the Judge ought to have made findings as to the alleged rape over and above the terse reference to it in [22]. Consequently, whilst the Judge has made cogent findings in relation to the vagueness and implausibility of A's account, his findings have ignored a material feature of A's account."
3. At the hearing of the appeal there was no appearance by or on behalf of the appellant. On my instructions The Court Clerk made inquiries of the solicitors on record namely Montague, Solicitors seeking reasons for their absence and that of the appellant. The Clerk reported that she had been told by someone at the solicitor's office that they had instructed Counsel to appear but the Counsel had not got the message. In the circumstances the solicitors requested that the appeal hearing be adjourned to a date in the future.
4. I refused the request for adjournment. The solicitors on record have their offices in London and if they had been serious in seeking an adjournment their response to inquiries made of them should have been to request that the hearing be put back to enable a solicitor to attend and give explanation and/or seek adjournment. No written application for adjournment was received on the day from either the solicitors or the chamber of the Counsel who they claimed had been instructed in the case. I was not satisfied that the explanation provided was bona fide and in any event did not explain the absence of the appellant. I noted that the appellant's address is in London ([ - ]) and she should have and could have attended the hearing if she had been serious in pursuit of her appeal to the Upper Tribunal. In coming to the decision to refuse the adjournment request, I took account of the general merits of the appeal as it stood before me and the lack of any correspondence such as witness statement of the appellant addressing the concerns raised by the First Tier Judge and a skeleton argument from those representing the appellant. I also noted that directions given by the Principal Resident Judge in respect of documentation required to pursue the appeal (para 5 and 6) had not been complied with by the appellant or her representatives. All these factors individually and cumulatively suggested to me that the appeal process was being used simply to prolong the appellant's stay in the UK.

5. I invited Mr Nath to make submissions. He asked me to find that the grounds of appeal upon which permission had been granted had no merit as the credibility findings made by the First Tier Tribunal Judge were well reasoned and soundly based. According to him law does not require a set order for consideration of various pieces of evidence. He drew my attention to the respondent's written Rule 24 response setting out the reasons for opposing this appeal. He asked me to find that there was no material error in the decision of the First Tier Judge and to uphold his decision.
6. I agree with the submissions made by Mr Nath. The First Tier Judge did not ignore the evidence of claimed rape. It is clear from his determination that he looked at all the evidence in the round and gave very good reasons for not finding the claim of the appellant to be credible. There was no reason for the Judge to first consider the medical or other evidence on claimed rape as even if it had happened it would have had little or no bearing on how the evidence of the appellant on her claim to asylum would have been effected. By no means should this be construed as minimising the heinous nature of the crime of rape. Had the appellant's medical report suggested that the claimed rape had caused her such trauma as to effect her mental ability and memory, the Judge would have been arguably wrong not to look at the report first and/or appraise the overall credibility of the appellant in the light of such medical findings. There was no such medical evidence before the Judge. I note and agree with the Rule 24 response from the respondent. On the issue of the appellant not having signed the interview record, in my judgement that is of no relevance in that the appellant has not raised any specific points in the record with which she disagrees.
7. As I have found no material error of law in the decision of Judge Talbot, his decision must stand. The appeal against the respondent's decision remains dismissed.

K Drabu CBE  
Deputy Judge of the Upper Tribunal.

Date: 21 May 2015

**Anonymity Direction:**

On the facts of this case anonymity direction is appropriate and such direction made by Judge Talbot is retained.

Having dismissed the appeal no fee award can be made.

K Drabu CBE  
Deputy Judge of the Upper Tribunal.

Date: 21 May 2015