



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05857/2017

THE IMMIGRATION ACTS

Heard at Glasgow
On 2 August 2018

Determination issued
On 10 August 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

M A

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

*For the Appellant: Mr S Winter, Advocate, instructed by Ethnic Minorities Law Centre,
Glasgow*

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant has permission to appeal against the decision of FtT Judge David C Clapham SSC, promulgated on 3 October 2017.
2. Parties confirmed that although not made explicit in the decision, the only issue for the judge was whether the appellant is gay. It was common ground that if so, he would be at risk of persecution in Saudi Arabia.

3. The grounds of challenge centre on paragraph 114, where the judge said that while he “had no reason to disbelieve the other witnesses” (who spoke to the appellant’s sexuality, and included his partner) “... this is the appellant’s case and his credibility is crucial”. The grounds contend that the judge failed to resolve conflicts in his findings, and failed to make findings on supporting letters, speaking to the appellant’s sexuality and his relationship.
4. The presenting officer conceded that the judge erred in point of law, such that his decision could not stand.
5. Parties agreed on the analysis that based on the evidence accepted by the judge, findings to which the respondent made no challenge, there was no basis for a further hearing, and no reason why it should not be found that he had proved his relationship and, crucially, his sexual orientation. Any criticisms which could rightly be made of the rest of his evidence were beside the point.
6. The decision of the First-tier Tribunal is set aside, and the following decision is substituted: the appeal, as brought to the FtT, is allowed.
7. The anonymity direction made by the FtT is maintained.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a stylized initial 'H'.

2 August 2018
Upper Tribunal Judge Macleman