



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

Case No: UI-2023-005447

First-tier Tribunal No: PA/54696/2021

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons  
Promulgated**

**On 26 January 2024**

29<sup>th</sup> January 2024

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL McCARTHY**

**Between**

**E O O  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Litigant in Person

For the Respondent: Mr S Walker, Home Office Presenting Officer

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and any member of their family is granted anonymity. Failure to comply with this order could amount to a contempt of court. 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 or any member of their family.**

**DECISION AND REASONS**

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1. With permission granted by First-tier Tribunal Judge Seelhoff, the Appellant appeals against the decision and reasons of First-tier Tribunal Judge Hillis that was promulgated on 17 September 2023.
2. At the outset of the hearing, I informed the Appellant that because of his mental health condition as evidenced in his medical records, I would have regard to him as a vulnerable person. That meant that I would take steps to facilitate his engagement in the hearing and would make sure he was not disadvantaged by a lack of legal knowledge or by procedural issues. I informed him that if he needed to take a break, he could request one. Mr Walker agreed that the Appellant fell within the Senior President of Tribunal's Child, Vulnerable Adult and Sensitive Witnesses Practice Direction.
3. After summarising his case, which in essence is a challenge to eight parts of the assessment of credibility made by Judge Hillis, I asked the Appellant if he had anything to add. He said the summary was accurate and that his questions were about whether late evidence would be admitted at this stage and whether a fresh decision would be made in the Upper Tribunal. I explained the legal procedures to him in answer to these issues, which are set out below.
4. Turning to Mr Walker, he informed me that as identified in the grant of permission, the difficulty in upholding Judge Hillis's decision is the fact there was evidence from family members regarding the Appellant's sexual orientation and that evidence, being in the form of sworn affidavits, would fall to be considered as independent evidence. Because at the end of paragraph 11, Judge Hillis specifically stated there was no independent evidence, it cannot be said that he had regard to those affidavits and the only reasonable conclusion is that he did not have regard to them. The Respondent was satisfied, therefore, that the credibility findings could not stand as they were not safe.
5. I informed the parties that I would be setting aside Judge Hillis's decision and would remit the appeal to the First-tier Tribunal to be decided afresh by a different Judge. I do so for the reasons given by the Upper Tribunal in Begum (Remaking or remittal) [2023] UKUT 46 (IAC). It will be open to the Appellant to provide further documentary evidence, including the letter from Mr Peter Close of the St Vincent de Paul Society, for that fresh hearing.

### Notice of Decision

The Appellant is a vulnerable person, and the Senior President of Tribunal's Child, Vulnerable Adults and Sensitive Witnesses Practice Direction applies.

The decision issued on 17 September 2023 contains legal error and is set aside.

The appeal is remitted to the First-tier Tribunal to be for a fresh decision on all matters by a judge other than Judge Hillis.

**Judge John McCarthy**

**Deputy Judge of the Upper Tribunal**

**Date: 29<sup>th</sup> January 2024**