



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

Appeal Number: AA/03484/2015

THE IMMIGRATION ACTS

**Heard at Glasgow
on 18 August 2015**

**Decision & Reasons Promulgated
on 21 August 2015**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

YNGRIS COROMOTO SUAREZ RODRIGUEZ

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Singh, of Ethnic Minorities Law Centre, Glasgow

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Venezuela, born on 19 August 1970. The respondent refused her asylum claim for reasons explained in detail in Annex A to her letter dated 16 February 2015. Although it was accepted that the appellant worked for the state run company PDBSA (Petroleum of Venezuela SA) it was not accepted that she was perceived as a traitor who planned to overthrow the government, that she had to escape from the country, or that she had been in a position to betray or to sell important confidential information arising from her employment.

2. First-tier Tribunal Judge J C Grant-Hutchison dismissed the appellant's appeal for reasons explained in her determination dated 29 April 2015. The judge also declined to accept that the appellant had been accused of selling information or of working with the government's enemies for its overthrow.
3. The judge sought permission to appeal to the Upper Tribunal, on grounds running to 20 paragraphs over 15 pages, which insist that the appellant was a credible witness in all respects, and maintain that the judge incorrectly summarised the evidence, and generally went wrong on credibility.
4. On 28 May 2015 First-tier Tribunal Judge Cruthers granted permission to appeal, commenting as follows:

"It is unfortunate the author of the grounds has not applied his or her mind to the question of potential materiality. For instance, even on their face it is difficult to see that the complaints in paragraphs 4 and 5 of the grounds could have any relevance to the outcome ... it seems to me it is only on page 3 of the grounds that one begins to find points that might have some bearing on the outcome ...

... What is probably crucial ... is whether or not the appellant makes good her claim that the police have visited her home since she last came to the UK and told her mother that the appellant had escaped taking information with her which she would sell and that she was a traitor (see the judge's paragraphs 23 and 32.) It seems to me that unless that claim is made out ... there is nothing in the rest of the appellant's account that establishes a real risk of serious harm on return to Venezuela.

If the above is right ... the judge's reasons for not accepting the above claim (her paragraphs 24-34) become determinative ... the grounds only just establish it as arguable that the judge erred in her paragraphs 24 on. Specifically, the appellant may have an argument if paragraph 14 of the grounds is correct when it says that the appellant had in fact said at her interview that she was considered to be a traitor and involved in a plot to overthrow the government ...

The appellant should not take this grant of permission as any indication that the appeal will ultimately be successful. It may be as per paragraph 16 of grounds that the appellant "knows which components and engine parts ... are doing well and which companies they are from" but on the face of it the appellant's case has a fair way to go from that assertion to establishing entitlement to international protection."

5. Mr Singh relied on all the grounds. He submitted that in essence the judge's summary of the evidence was incorrect, which led the reader to believe the appellant was not a credible witness. The judge misunderstood several points. Although they might not separately be significant, in combination they were such that the appellant should have been believed and her appeal should have been allowed.

6. Arriving at paragraph 14 of the grounds, which led to the grant of permission, Mr Singh confirmed that this is directed against paragraph 24(d) of the determination, which says:

“There is no mention in the said record of interview of the appellant selling information as part of a plot to overthrow the government which I find has been said in her interview record simply to embellish her claim. The appellant is asked ... what happened that made her change her mind and she replied *“when I called my mum to inform her of my safe arrival she told me to see the news as the situation had become very dangerous after I left for the people who stood out against the government.”* She is then asked why the government would think she is a traitor and she replied ... [*also quoted*] ... In my view the appellant is looking at the general situation. There is nothing in the newspapers which directly targets her [or] to show she is wanted as a traitor for selling information.”

7. Mr Singh directed attention to Q/A 126 of the interview, where the appellant said that she heard from her mother that a security official told their mother that on return the appellant would be arrested for being a traitor, and to Q/A 130, where she said it had been alleged to her mother that the appellant had taken a lot of information and was selling it, and that she would be captured on return through immigration.
8. Having gone through the various grounds, Mr Singh submitted that on all the evidence, properly considered, the appellant’s appeal should be allowed.
9. I indicated to the parties that having considered the grounds and submissions I was of the view that the appellant’s challenge did not amount to more than insistence upon the case put to the First-tier Tribunal and that she was bound to be held an entirely credible witness, and that no material error in the judge’s resolution of the case was identified. The only substantial point was that the judge appeared to have overlooked the passage of the interview where the appellant did say that it had been alleged that she was selling information. Correction of that error would leave the appellant well short of a realistic case of a risk of persecution on return to Venezuela, and the determination as a whole was not shown to be legally flawed.
10. Mr Mullen then made the following observation. The first sentence of paragraph 24(d) makes little sense as it stands. In the first part of it the judge says that the appellant did not mention the matter at interview, but in the second part of the sentence she says that it was there, and was an embellishment. He suggested that the sentence would make perfect sense if the word “no” was deleted – “there *is* mention in the said record of interview ...”
11. Mr Singh in response (very fairly and correctly) accepted that the sentence did make more sense without the word “no”, and that this might be a typographical error. Nevertheless, he stood by his overall challenge.

12. I indicated that the appellant's appeal to the Upper Tribunal would be dismissed.
13. The point on which permission was granted at highest would not be enough to overturn the determination, or to reach another result. I am satisfied in any event that, as Mr Mullen observed, this arises from a typographical error. The sentence makes sense only if the word "no" is deleted. It then becomes self-consistent, and fits with the rest of the paragraph. The judge did take account of the relevant passage in the interview.
14. The appellant's grounds and submissions do not show that the determination should be set aside for any error in point of law, so it shall stand.

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

Upper Tribunal Judge Macleman
19 August 2015