



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

Appeal Number: PA/01037/2017

THE IMMIGRATION ACTS

Heard at Manchester

On 15th December 2017

**Decision & Reasons
Promulgated**

On 23rd January 2018

Before

UPPER TRIBUNAL JUDGE KING TD

Between

MR IYA CISSE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Non-appearance

For the Respondent: Mr A McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Guinea born in 1984 who sought to claim asylum on the basis that he was homosexual and Christian and therefore at risk of persecution if returned to Guinea.
2. In a decision of 18th January 2017 the respondent rejected that claim. The appellant sought to appeal against the decision, which appeal came before

First-tier Tribunal Judge Hudson on 2nd March 2017. In a determination dated 14th March 2017 the appellant's appeal was dismissed, the Judge concluding that the appellant was not homosexual nor indeed a Christian nor was he at risk upon return on any basis.

3. In the course of the hearing it was made clear that the appellant suffered from hepatitis B and was receiving treatment under the National Health Service for that condition. It was raised as being a factor which would prevent him from working were he to be returned to Guinea and thus expose him to hardship and deprivation.
4. The appellant, through the grounds of appeal sought to argue that his chronic hepatitis was such as to entitle protection. Although the Judge had applied **N v Secretary of State for the Home Department [2005] UKHL 31** he said that the Judge erred in law in failing to follow and apply **Paposhvili v Belgium - 41738/10 [2016] ECHR 1113**, a decision of 13th December 2016 which imposes a much lower threshold than does **N** so that the First-tier Tribunal might have reached a different conclusion if it had applied **Paposhvili**.
5. Permission to appeal to the Upper Tribunal was granted on that limited basis.
6. Thus the matter comes before me to determine the issue. The appellant did not attend. Seemingly he is no longer represented by his former solicitors. He has moved from the area with NASS support but his current whereabouts are unknown. The appellant has done nothing to notify the Tribunal as to his current address.
7. In those circumstances it is in the interest of justice to proceed to determine the appeal.
8. As I have indicated the Judge did not believe that the appellant was homosexual or a Christian and that has not been a finding challenged specifically by the appellant in his grounds. The narrow point being the applicability of **Paposhvili**.
9. That matter can be dealt with quickly because the Upper Tribunal, in the decision **EA & Others (Article 3 medical cases - Paposhvili not applicable) [2017] UKUT 00445 IAC**, stated in terms that the test in **Paposhvili** is not one which is open to the Tribunal to apply by reason of its being contrary to judicial precedent.
10. The precise arguments which were raised by the appellant in his grounds of appeal were those considered by the Upper Tribunal in **EA & Others**. It is the decision to be followed. In those circumstances this appeal before the Upper Tribunal is dismissed. The decision of the First-tier Tribunal shall stand namely that the appellant's appeal is dismissed on asylum

grounds; on humanitarian protection grounds and on human rights grounds.

Notice of Decision

The appeal is dismissed on all issues.

No anonymity direction is made.

A handwritten signature in black ink, appearing to read 'P. Q. King'.

Signed

Date 19 January 2018

Upper Tribunal Judge King TD