

IMMIGRATION APPEAL TRIBUNAL

Date: 5 November 2004
Date Determination notified:
.16/12/2004.....

Before:

Mr Justice Ouseley (President)
Mr M E Fraenkel
Dr J O de Barros

Between:

APPELLANT

and

Secretary of State for the Home Department

RESPONDENT

Appearances:

For the Appellant: Mr K Kuranchie of Refugee Legal Centre

For the Respondent: Mr C P Buckley, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a citizen of the Democratic Republic of Congo, born on 1 January 1940. She arrived in the United Kingdom by air on 6 April 2002 and sought asylum two days later. This was refused on 6 June 2002. Her appeal against that refusal was dismissed on asylum and human rights grounds by an Adjudicator, Mr B Grewal, in a determination promulgated on 21 November 2002.
2. The Adjudicator set out the evidence at some length. It included evidence from the Appellant herself and also from her daughter who had been in the United Kingdom since about 1995, who herself was said to have an outstanding asylum claim.
3. One of the grounds of appeal is that there were areas of the claim which the Adjudicator did not deal with. However, the claim, as he

set out it, was that the Appellant left Kinshasa in 1998, having lived there for nearly forty years with her husband and family, and went to live in the rural east of the country. They left three children behind and lost all contact with them. After a while, and the Adjudicator took it to be about 2001, she began to experience difficulties with the rebels. She hid her nephew in the forest from the rebels who wanted to recruit him. They demanded to know where he was, beat her, took her husband away and burnt her home down. She tried unsuccessfully to find her nephew and grandchild in the forest. She walked to a mission where the priest took her to a man who helped her by taking her to another man, who drove her to the airport and assisted her to board. She had not known till then that she was going to board an aeroplane. Nor did she know where she was going. She only thought she was in Europe when she landed in the United Kingdom, where she knew her daughter was. She met some people who spoke Lingala, and they asked friends if they knew her daughter. They did, and that same day she met her daughter and has lived with her ever since. The daughter said that it was a few days later that they met up.

4. The Appellant was said to be in need of international protection because she had problems in rebel-held areas, and could not return to Kinshasa because she had lived in a rebel-held area, would be suspected of rebel connections or would be in further difficulties because her husband had been a Mobutu soldier. She also had medical problems, including PTSD, and had no known relatives in Kinshasa. It would breach Articles 3 and 8 to return her to Kinshasa.
5. The Adjudicator rejected her claim. He said that she had not been involved in any political activity, and had not been detained by DRC authorities. Her fear of harassment by rebels because she would not tell them of the whereabouts of her nephew and grandchild did not amount to a well-founded fear of persecution. That would not put her in any difficulties vis a vis the government. She would not be returned to a rebel controlled area and even if that were to happen she was unlikely to be of any interest to them. The Adjudicator then went on to make a series of strong adverse credibility findings. As issue was taken with the rationality of these, we set them out.

“17. Like the Secretary of State I find the appellant’s account of her escape from DRC as completely incredible. I find her account of walking through the forest and surviving on bananas and cassava implausible. She claims to have slept in the forest without any cover or shelter and yet the appellant says in paragraph 5 of her statement at B10 that she was able to keep in touch with the people of her village and that they told her about the rebels and that her husband was still with the rebels. I simply do not believe the appellant’s story. In my view the villagers would not have risked contacting the appellant in the forest knowing that her husband was involved with the rebels. I find the rest of the story

about her journey even more incredible. I find it incredible that the priest would risk all by sheltering the appellant and then taking her to () house. I simply do not believe the story of her journey with () who allegedly took his bicycle and they went through the forest. She would have me believe that this man walked with her for a whole week before he literally handed her over to another man along with an envelope which was apparently stuffed presumably with money. She would further have me believe that this man made all the arrangements for her travel to the United Kingdom and then in fact travelled with her all the way to the United Kingdom. I was given no explanation whatsoever why () would be interested in parting with a large amount of money to help the appellant whom he had not met before. In my view the whole story is a complete fabrication and it damages the appellant's credibility very seriously indeed.

18. I also take into account the fact that the appellant and her daughter gave differing accounts about how the appellant traced her daughter. Once again I simply do not believe the appellant that she did not know that she was coming to the United Kingdom till she landed in the United Kingdom and saw white people. This is even more implausible in view of the fact that the appellant knew all along that her daughter was living in the United Kingdom. The appellant would have me believe that she was not aware of her daughter's whereabouts in the United Kingdom when she arrived here. She told me at the hearing that when she arrived in the United Kingdom she established contact with her daughter through people who were speaking Lingala and when she asked them if they knew some Batetela tribe persons they traced her daughter. Miraculously she appears to have traced her daughter by the end of the day. Yet in her statement dated 17th April 2002 the appellant says that after she arrived in the United Kingdom with this person he took her to a place where she stayed for three days until Monday and that she went with him on Monday to Croydon where she claimed asylum on 22nd April. I take into account the fact that the appellant's daughter gave evidence at the hearing and she told me that she had found out about the appellant only after she arrived in this country. Once again I simply do not believe the account given by the appellant's daughter. She told me that she found out about her mother through a charity called Lo Sa Lo and that they phoned her that her mother was there. She could not remember the date. At this stage the witness was either unable or unwilling to answer the questions being asked and eventually stated that she had been in this country for some days before she met her. The appellant had apparently told her daughter that she had stayed with the agent but did not know where. These discrepancies in the appellant's account undermine the credibility of her account and her own credibility.
19. I also note that the appellant had said that she had heard some Lingala speakers and then went to their house. I need to be satisfied that the appellant has given an accurate account of past events in order to assess whether the fears she claims to have as to what may happen to her in the future is well-founded. Certainly in the case of this appellant I am far from being satisfied that she has given an accurate account of past events and accordingly I have serious doubts about the appellant's claim to have a well-founded fear of persecution.

20. Having heard the appellant give evidence I have concluded that neither the appellant nor her daughter were credible witnesses. In my view the appellant's story is a complete fabrication. In fact I am firmly of the view that the appellant was very well aware of where her daughter was and in fact arranged the journey to join her daughter in the United Kingdom for economic reasons rather than for fear of persecution. I did not believe a word of the appellant's or her daughter's account. In my view the appellant's journey was well-planned and meticulously executed."
6. After saying that the Appellant and her daughter were totally lacking in credibility and dealing with other matters, the Adjudicator said, in a paragraph which was also the subject of criticism:
- "24. I have given careful consideration to the medical report. As it is based on the appellant's account, which is not credible, I am unable to attach much weight to it."
7. The first ground of appeal was that the Adjudicator had failed to consider an important aspect of the claim which was that the Appellant had claimed to have left Kinshasa because she had been attacked there by people favourable to Laurent Kabila. At interview, she had said that people had thought that cousins she had to stay were Rwandans because they were strangers and because her husband was a former Mobutu soldier. Their house had been attacked and burnt and for that reason she and her husband left for the rural area. This meant that if she were returned to Kinshasa, which is the only place to which returns take place, she would be again at risk. This aspect was not dealt with. She would be seen as someone coming from a rebel-held area and that would place her at risk in Kinshasa. These could be seen as imputed political opinions and give rise to a Convention reason for persecution.
8. The second and third grounds of appeal took issue with the adverse credibility findings. It was contended that the Adjudicator had failed to give weight to the psychiatric report of Dr Seear, which was relevant to the credibility of the Appellant in having suffered as she said she had. We were referred to two cases; in one the medical evidence was strongly corroborative of the medical claims and had been wrongly discounted in the assessment of credibility; in the other, Ibrahim [1998] INLR 511, the then President His Honour Judge Pearl had commented that any medical or psychiatric report deserved careful and specific consideration in each and every aspect. The passage cited in the grounds did not refer to credibility as such.
9. It was also contended that there was nothing implausible in the Appellant surviving in her walk through the forest on bananas and cassava, or in her claim that villagers would have looked for her; they would have been quite likely to try to find someone who was elderly and had been beaten. There was nothing perverse in the idea that a mission priest would assist the Appellant, particularly if it

were a wealthy mission; there was nothing implausible about it being the mission rather than anyone else who provided financial assistance to the Appellant. Whether or not the Appellant knew that her daughter was in the United Kingdom was peripheral.

10. The fourth and fifth grounds of appeal are also inter-related. The Appellant's personal circumstances, as an elderly woman with no known relatives living in Kinshasa, suffering from medical problems which would be exacerbated by her return, meant that it would be a breach of Article 8 for her to be returned. The position of her daughter's asylum claim was unknown and it could not be assumed that she would be able to return with her mother. As a woman, she was subject to legal discrimination, as the CIPU Report for April 2004 and the US State Department Report made clear. This would all be compounded by the fact that her house had been burnt and that she would be at risk anyway from the adverse attentions of the Joseph Kabila authorities because of her past and her perceived origins from a rebel-held area.
11. It was conceded by the Secretary of State that the Adjudicator had failed to deal with the flight from Kinshasa, which he should have done, but that the background material showed that even if he had accepted what she had to say about that, there was now no risk to her upon return. This should not be seen as an internal relocation case.
12. It is correct as the first ground of appeal contends that the Adjudicator makes no finding in relation to the Appellant's claim to have left Kinshasa in 1998 as a result of action taken against her home because they were suspected of harbouring Rwandans. However, there is no evidence that it was a significant part of the case before the Adjudicator as opposed to a part of the background to the story of her entanglement with the rebels and her escape from them. This is equally so whether the incident in Kinshasa was seen as an aspect of persecution or as an aspect of problems on return. The limited part, if any, played by the events in Kinshasa can be seen by the lengthy and detailed recital of the case by the Adjudicator. We find it difficult to accept that it was a large part of the case so as to require to be specifically dealt with, in the absence of evidence as to how the case was actually put to the Adjudicator. Next, it is very surprising that after living peacefully in Kinshasa for nearly forty years, the arrival of her relatives should lead the relatives to be regarded as Rwandans and should spark such hostility. In any event the rejection of the Appellant's credibility is so strong, sound and comprehensive that nothing in the Kinshasa events would affect the overall adverse findings, even if they were accepted to have occurred. Finally, it is difficult to see that the Adjudicator would have said anything other than that she could not believe anything which the Appellant told her, in the light of her

conclusions. It would not have therefore been of relevance to the assessment of risk on return.

13. However, even if it were accepted as true in isolation, we accept the submission from Mr Buckley that it would not show that the Appellant was at risk of persecution or of treatment which breached Article 3. First, the CIPU Report of April 2004 deals with FAZ or former Mobutu soldiers. In paragraph 6. 58, it says:

“... the security situation in the DRC for former FAZ soldiers has improved since Joseph Kabila became president in January 2001. According to the CEDOCA report, in 2002, many former FAZ soldiers were serving in the current Congolese army. In 2002, all the key positions in the FAC high command were occupied by former FAZ soldiers and an estimated 20,000 to 25,000 former FAZ soldiers were living in Kinshasa.”

14. Then after dealing with the problem of certain former Mobutu officials, which was their pillaging of the country and the actions taken against them, it said in paragraph 6.59:

“The security situation improved for persons closely associated with the Mobutu regime when Joseph Kabila came to power in January 2001, and even more so, after the Sun City Peace Accord was signed in April 2002. A large number of persons closely associated with the Mobutu regime have now returned to the DRC.”

This shows that there would not be a risk on return on account of her husband’s former position as a Mobutu soldier.

15. Second, if the hostility was the result of it being thought by some people that they were harbouring Rwandans, the significance is that it would have shown the Appellant to have been thought of as enemies of Laurent Kabila, and as former Mobutu supporters. This is explained in the CIPU Report at paragraphs 4.8, 4.11 and 4.21. In 4.8, the Rwandan Hutus had allied themselves with the FAZ in the mid 90s; Tutsis from Rwanda had sought to overthrow Mobutu with rebel Congolese led by Laurent Kabila. In 4.11, it points out that there was a rebellion against Laurent Kabila in 1998, which supports the Appellant’s story. Joseph Kabila had become President in January 2001. In 4.21, the peace agreement of July 2002 is referred to, foreign troops were to be withdrawn, most of them left, and only the Hutus did not recognise the agreement. A year after the agreement, a provisional government had been set up which ended the five year civil war between the government and the rebels. An attempted coup on March 2004, which some laid at the door of former Mobutu soldiers and involved a small number of men, was dealt with rapidly and was not seen by the government as a destabilising factor. We do not consider that there is now evidence that someone, who at the start of the civil war was seen by some as having anti Laurent Kabila sympathies, at the very limited level which applied here, would now be at risk on return on that account.

The former soldiers have returned to be integrated with the army generally, the war is over and former rebels are part of the government. That is not to say that all is stable, but the incident in Kinshasa is not a basis for a real fear of persecution for the Appellant on return there. There is nothing to show that she would now be regarded as a Mobutu supporter, or as a rebel against the Joseph Kabila government, or that they would be troubled by her past. She is not a Rwandan, either Hutu or Tutsi. The Tribunal's assessment in CI (Link to Mobutu) DRC CG [2004] UKIAT 00072, and the cases cited in it, supports that assessment.

16. We turn to ground two which relates to the role of the report of Dr Seear in the assessment of credibility. It is worth pointing out that the citation of what Forbes J had to say is of no assistance unless the medical report offers some corroboration for what an appellant is saying. If the report truly does offer that support it would of course be wrong to ignore it. But his comment does not suggest that medical reports should be seen as offering corroboration as a general proposition. Whether they do or not depends on the reports and the acts which it is said that they support. As to the citation of what His Honour Judge Pearl said in Ibrahim, we comment that that cannot be regarded as a sound approach, of relevance to each and every medical or psychiatric report on issues of credibility, or indeed more generally. The experience of the Tribunal over a number of years since then is that the quality of reports is so variable and sadly often so poor and unhelpful, that there is no necessary obligation to give them weight merely because they are medical or psychiatric reports. The consideration given to a report depends on the quality of the report and the standing and qualifications of the doctor.
17. A particular difficulty arises in the contention that a report should be seen as corroborating the evidence of an applicant for protection. A doctor does not usually assess the credibility of an applicant; it is not usually appropriate for him to do so in respect of a patient or client. That is in any event the task of the fact-finder who will have often more material than the doctor, and will have heard the evidence tested. So for very good and understandable reasons the medical report will nearly always accept at face value what the patient or client says about his history. The report may be able to offer a description of physical conditions and an opinion as to the degree of consistency of what has been observed with what has been said by the applicant. But for those conditions, eg scarring, to be merely consistent with what has been said by the applicant, does no more than state that it is consistent with other causes also. It is not common for the phrases which indicate a higher probative value in the observed conditions to be used. That limits the weight which can be afforded to such a report when judging the credibility of the claim. Rather than offering significant separate support for the

claim, a conclusion as to mere consistency generally only has the effect of not negating the claim.

18. Where the report is a psychiatric report, often diagnosing PTSD or some form of depression, there are often observations of behaviour at the interview, and a recounting of the answers given to questions about relevant conditions eg dreams and sleep patterns. Sometimes these answers are said to be consistent with what has been set out as the relevant history of the applicant. It is more difficult for the psychiatrist to treat what he observes as objectively verified, than it is for the description of physical conditions, because they are the more readily feigned; it is rare for a psychiatrist's report to be able to indicate that any part of the observations were undertaken in a way which makes them more objectively verifiable. It is the more difficult for there to be any verification of conditions which the psychiatrist cannot observe and for which he is wholly dependant on the applicant. The further major problem with the contention that a psychiatric report can be used to support an applicant's claim to have told the truth about the history, is that there are usually other obvious potential causes for the signs of anxiety, stress and depression. These include the fact that the applicant may be facing return to the country which he has left, at some expense to himself and family, and it may well not be a pleasant place to which to return. He may face the loss of friendships and lifestyle which he has enjoyed in the United Kingdom. There may be a loss of family contacts and of medical treatment. He may anyway suffer from some depression, without having been ill-treated in a way requiring international protection. He may have experienced difficulties other than those which he relies on for his claim. But it is very rare, and it will usually be very difficult, for a psychiatrist to assess such other factors without engaging in the process of testing the truth of what the applicant says. This is not his task and if there is a therapeutic side to the interview, it may run counter to those aims as seen properly by the doctor.
19. Accordingly, the part which a psychiatric report can play in assisting the assessment of credibility is usually very limited indeed. It will be even rarer for the report to be or contain a factor which is of real significance in the assessment. Where the report merely recounts a history which the Adjudicator is minded to reject, and contains nothing which does not depend upon the truthfulness of the applicant, the part which it can play is negligible. In any event, and importantly, the report is unlikely to have considered other causes for what has been observed, or the possible diagnosis, if any, if the history is untrue. We must illustrate that in this case.
20. The report of Dr Seear is of no real value in assessing credibility. That is not a criticism of the report; it was not its purpose to be used

in that way. He assumes, perfectly understandably, that what he has been told by the Appellant is true. He does not consider any other causes for any symptoms of depression which he records. He does not consider whether any of the matters which he observed could be feigned. Yet this was a woman of 62, not in the best of health, who had come to the United Kingdom allegedly by coincidence and by a remarkable stroke of good fortune, had found her daughter. She faced return to the Democratic Republic of Congo. It is obvious that there could be some scope for depression from that alone. Anyone living in the Democratic Republic of Congo for sixty years may well have seen events which were troubling mentally for a long while. She had an obvious possible interest in feigning or exaggerating symptoms or her descriptions of her conditions. Yet the report does not consider this. This comment, we emphasise, is not a criticism of Dr Seear: it would not have been his place to undertake such an exercise, for it is not his task as a doctor, but it is the Adjudicator's as fact-finder. Our comment is a warning against the argument addressed to us, which complained that a report was not put to a purpose for which it was not intended and which it cannot serve.

21. It is perfectly understandable, in view of the Adjudicator's finding that the Appellant planned her journey to the United Kingdom for economic reasons to join her daughter, that she would be depressed at the thought of returning, having wasted her money and having her naively entertained hopes dashed. The Democratic Republic of Congo may be far from pleasant for a 62 year-old woman and the medical facilities far worse. She may be depressed anyway. Had he been asked to assess her on the basis, as is perfectly obvious, that she had deliberately come to the United Kingdom to join her daughter here, and that the rest of her story was a fabrication, some of the diagnosis might have remained the same; it might not. An assessment of feigned or exaggerated symptoms and descriptions of conditions would have to be considered. It is difficult to see what value could be put on that report as a support for the Appellant's credibility.
22. Where the report is specifically relied on as a factor relevant to credibility, the Adjudicator should deal with it as an integral part of the findings on credibility rather than just as an add-on, which does not undermine the conclusions to which he would otherwise come. We asked Mr Bobb what part of it had been said to be of value in this respect to the Adjudicator. He was unable to say. Where an advocate seeks to support credibility findings by reference to a medical report, he must identify what about it affords support to what the claimant has said and which is not dependant on what the claimant has said.

23. We asked Mr Bobb what part he said was important in assessing credibility, and he referred in the most general terms to the diagnosis. This is hopeless; it is incapable of giving rise to any doubt at all over the credibility findings. We hope that advocates will be much more cautious about relying on psychiatric reports for credibility support unless they identify what in it supports the credibility of the claimant and on appeal they should identify what aspect they relied on which the Adjudicator is said to have ignored. That should be the subject of specific evidence.
24. As to the other challenges to the credibility findings, it is significant that no challenge could be raised to the conclusion that the story of the Appellant arriving at an airport, not knowing anything at all about her destination until she arrived and finding by a marvellous coincidence that it was the United Kingdom where she knew her daughter was, and very shortly, with a few inquiries miraculously finding her daughter, was nonsense. The conclusion that the Appellant had made a planned journey to the United Kingdom for economic reasons to be with her daughter and that they both lied about it is inevitable. To suggest that this was peripheral, as did Mr Bobb, is wholly unrealistic. This finding means that even if some criticism could be made of a few comments, they do not go to the core of the Adjudicator's reasoning.
25. One can debate whether or not someone of the Appellant's age could survive in the forest for a week on bananas and cassavas without shelter; but it is not a large point on any view. The Adjudicator was entitled to reach the conclusion he did on it anyway. The rejection of the story that the villagers helped her is reasoned; they would not have risked their lives for her. The suggestion that that is too cynical an approach and that they would have felt charitably towards her is a point which the Adjudicator was entitled to reject as implicitly he did. No explanation was offered as to why they would risk themselves for her, apart from the suggestion of Mr Bobb that they were kindly people.
26. The suggestion that it was the mission which paid the airfare is not how the story was told but even if it were, it is pure and improbable speculation on the part of Mr Bobb that a mission would be large enough to be willing to spend that amount of money on a stranger to leave the Democratic Republic of Congo and to leave by air to a country as far away as the United Kingdom. Apparently it did so without inquiring if the Appellant had any relatives there, for no such evidence is given by the Appellant.
27. We turn to Article 8. Although the submissions did not make the position clear, there are really two bases for the consideration of this point. First, on the Adjudicator's findings as to credibility, it is difficult to see that Article 8 has much content here. Much of the

factual basis for the claim has not been proved even to the lower standard. She lived in Kinshasa for forty years and the allegation that she left because of the events described in 1998 cannot be regarded as reliable in view of the adverse credibility findings. The whereabouts of her husband, whom she said had been taken by the rebels, cannot be taken from what she said. It cannot be assumed that she would return to life as a single woman with no family support in Kinshasa, even if her daughter in the United Kingdom were unable to return with her. There is no real risk to those who return merely as failed asylum seekers.

28. The daughter was said before the Adjudicator to have an undetermined asylum claim, dating back to 1995. We asked Mr Bobb, who was contending that she could not return with her mother, what the position now was. He did not know. The two live together. It is for the Appellant to prove her case to the lower standard. She could ascertain the position easily if this were a point of relevance. We are not prepared to assume that the claim has been successful or remained so long undetermined. If either of those had been the case we would have expected to see evidence supporting that.
29. The report of Dr Seear poses problems for the Appellant in this respect. It is impossible to tell whether any of the diagnosis would have been the same if the assessment had been carried out on the basis upon which the Tribunal now approaches it. It appears at best to be suggested that she needed counselling and anti-depressants two years ago. The risk that her condition would be worsened upon return to where she previously experienced trauma assumes that she would be returned to a rebel controlled area, because the trauma relates to what happened in the village and not to what happened in Kinshasa at all.
30. On the basis of the Adjudicator's approach, there was no content of substance to the Article 8 claim. She merely had a family life, now for two years with one child, whom she had not lived with for at least seven years before. What her position would be in Kinshasa was not credibly shown. She cannot improve her case through her lies, leaving the position unknown. Her life here would be disrupted, but the degree to which that would happen depends on the daughter's status and we are not prepared to assume that she would be unable to return either because she has an undetermined claim, if it is, or because it has been determined favourably to her, in the absence of evidence from an unimpeachable source. The Secretary of State did not know the position but he was not relying on it and did not have the advantage in this respect of living with the daughter. The mental integrity of the Appellant depends upon the weight given to the report of Dr Seear and we do not think in this case that any weight can be given to it.

31. Second, even taking the position to be more favourable to the Appellant than is justified, we would have to accept the incident in Kinshasa as true but it would be of no real significance. We have dealt already with the position on return of those who might have been former Mobutu soldiers or have been involved with Rwandans who aided the rebellion against Laurent Kabila. Her involvement was not with them but only through marriage with a former soldier; there is no basis for supposing that she would now be perceived as a rebel supporter from that incident. The evidence does not support any conclusion that a short period spent in a rebel area from which a non-Rwandan person left to seek asylum, gives rise to a real risk of an adverse perception, and then of consequent persecution or ill-treatment.
32. Events in Kinshasa were not the basis of the trauma which would be reawakened by return. The evidence that there might be a reawakening of stress, excluding the unreliability of the material upon which it is based, is not sufficient in degree in any event to show a significant impact on mental integrity to set against the requirements of immigration control. The need for medical treatment by counselling and anti-depressant was raised two years ago, and assuming neither to be available in Kinshasa, does not add anything of significance. Her physical ailments are quite mild. Even if the Appellant were to return to Kinshasa without her daughter in the United Kingdom and lived there alone, which is a hypothesis which we do not accept, this would not involve a breach of Article 8. She could make an application under the Immigration Rules, and if there were none which availed her, that would not mean that her return was disproportionate. Rather it would suggest that no improper advantage should be taken of a deceitful asylum claim.
33. She lived in Kinshasa for nearly forty years without any problems until 1998; she would be no stranger to the city and would instead be familiar with her surroundings. She might have no property of her own to live in but it is inconceivable that she would have no contacts who would be able to assist. Three children were living there in 1998. Mr Bobb referred to a passage in the CIPU Report, 6.33, which said that women were discriminated against in many walks of life, and required their husband's permission before engaging in various transactions including those concerning property. It is far from clear that this applies to someone in the position of the Appellant, the whereabouts of whose husband is allegedly unknown. She might well find life tough and harsh, but that does not involve a breach of Article 3's high threshold, nor does it mean that return would be disproportionate if Article 8 were engaged. It is no basis for international protection or for saying that her human integrity would be disproportionately interfered with.

34. However, that second set of factors is based on a premise which we do not accept. The Adjudicator did not err in not dealing with Article 8 in the light of her findings of fact and the content of the Article 8 point raised.
35. This appeal is accordingly dismissed. It is reported for what we say about the relevance of medical and psychiatric reports to credibility and the way in which advocates relying on them for that purpose should set out their case.

MR JUSTICE OUSELEY
PRESIDENT