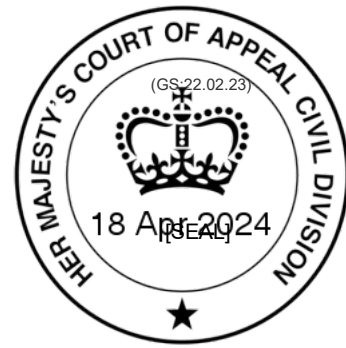




**IN THE COURT OF APPEAL, CIVIL DIVISION
APPLICATION FOR A SECOND APPEAL**

REF: CA-2024-000253



Secretary of State for the Home Department –v– RMA

CA-2024-000253

Decision on an application for a second appeal. The Judge will not give permission unless he or she considers that (a) the appeal would i) have a real prospect of success; and ii) raise an important point of principle or practice; or (b) there is some other compelling reason for the Court of Appeal to hear it.

ORDER made by the Rt. Hon. Lady Justice Falk

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal against a decision of the Upper Tribunal released on 7 December 2023

Decision:

1. Permission to appeal granted.
2. The name of the Respondent appear as RMA and any material from which he may be identified should be omitted from any document (including skeleton arguments) which may become available to the public.
3. Pursuant to CPR Rule 39.2(5) this order shall be published on the website of the Judiciary of England and Wales.

Reasons

Permission to appeal

The Appellant appears to face a high hurdle in seeking to overturn the FTT's factual conclusions that a) it was likely that RMA's family would disown him if they were aware of the conviction; b) due to the media attention it was likely that they were aware; and c) on balance it was "at least reasonably likely" that RMA had in fact been disowned by male family members (paras. 59-62). However, I consider that there is sufficient in ground 1 to make the judge's approach to reaching those conclusions appropriate for scrutiny and that it meets the threshold for a second appeal.

It is also appropriate to grant permission on Ground 2 on the basis that it has a real prospect of success.

Anonymity

The Upper Tribunal considered this point, noting that the original anonymity direction was made on the basis that the appeal involved protection issues, which it no longer does, but that the appellant remains a person who sought asylum. It decided to maintain anonymity, bearing in mind that Article 3 ECHR was in issue.

It is not immediately obvious that this case meets the revised guidance set out in the March 2022 Practice Guidance – Anonymisation of Parties to Asylum & Immigration cases in the Court of Appeal. At present I am prepared to continue anonymity, particularly given that one aspect of the appeal is an argument that female family members should assist RMA even if their male relatives would not be prepared to do so. If that is right then the position could be affected by family knowledge of the outcome of an appeal, such that continued anonymisation would be appropriate to protect RMA's interests.

Information for or directions to the parties

Mediation: Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)? No

Pilot categories:

- | | |
|---|---|
| <ul style="list-style-type: none"> • All cases involving a litigant in person (other than immigration and family appeals) • Personal injury and clinical negligence cases; • All other professional negligence cases; • Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual; | <ul style="list-style-type: none"> • Boundary disputes; • Inheritance disputes. • EAT Appeals • Residential landlord and tenant appeals |
|---|---|

If yes, is there any reason not to refer to CAMS mediation under the pilot?

N/A

If yes, please give reason:

Non-pilot cases: Do you wish to make a recommendation for mediation?

No

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 1 day
- b) any expedition No

Signed: BY THE COURT

Date: 18TH APRIL 2024

Notes

- (1) Permission to appeal will only be granted in respect of second appeals if the court considers that:
 - (a) the proposed appeal would have a real prospect of success and would raise some important point of principle or practice;
 - or
 - (b) there is some other compelling reason for the relevant appellate court to hear the appeal.In respect of second appeals from the county court or High Court, see CPR 52.7.
In respect of appeals from the Upper Tribunal, see Article 2 of the Appeals from the Upper Tribunal Order 2008 (SI 2008/2834).
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

Case Number: **CA-2024-000253**