

**Appeal No. HX15856-2002**

**FS (Camps-Vulnerable Group-Woman) Sierra Leone CG [2002] UKIAT  
05588**

**IMMIGRATION APPEAL TRIBUNAL**

Date heard: 17 September 2002

Date notified: 3 December 2002

Before: -

**DR H H STOREY (CHAIRMAN)  
MR M L JAMES  
RT HON THE COUNTESS OF MAR**

Between

**MS FATMATA SUMAH**

Appellant

and

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DETERMINATION AND REASONS**

1. The appellant, a national of Sierra Leone, has appealed with leave of the Tribunal against a determination of Adjudicator, Dr R Kekic, dismissing the appeal against the decision of the Secretary of State to set removal directions after refusing asylum. Mr A Deve of Counsel instructed by Refugee Legal Centre (RLC) appeared for the appellant. Mr D Wontumi appeared for the respondent.

2. The Tribunal has decided to allow this appeal on Article 8 grounds only.

3. The core of the appellant's account was that she had been abducted by RUF rebels in January 1999 because she had supported the SLPP. She had been raped by four of her abductors. After escaping she found that her grandmother's house had been burnt down and that her aunt and sister had been killed in the fire. She and her brother and grandmother fled to Guinea. During her 2 years there a French man called Henry lured her into prostitution, when she came to the UK she managed to give Henry the slip.

the appellant left for France. She feared that if returned to Sierra Leone she would be treated as a second-class unclean woman

4. The adjudicator did not accept the appellant's account. She considered that if the appellant had been raped in the circumstances described, she would, found the adjudicator, have mentioned it to her representatives much earlier than she did. The same applied to her claim to have been forced into prostitution in Guinea. The adjudicator also found inconsistent and implausible various aspects of the appellant's account of her grandmother's house having been burnt down. In addition she found implausible the appellant's claim that her aunt left her behind.

5. The adjudicator also attached little weight to the report of Dr Shehadeh, it being based only on the limited information the appellant had given. She stated:

" I find the report to be bland and do not consider that it takes the appellant's case further... There is no documentary evidence to support his conclusions that the appellant would be treated as a second class unclean woman if returned to Sierra Leone or that women with her background are treated as rejects in Sierra Leone society."

6. The grounds complain that the adjudicator failed to take sufficient account of the difficulties associated with reporting rape and failed to give adequate weight to the opinion of Dr Shehadeh and the country specific research on the situation of women who suffered rape and sexual violence in Sierra Leone. There was now an additional letter from Dr Shehadeh clarifying his diagnostic methods. They also contended that the adjudicator had clearly elevated minor discrepancies into material considerations to support her adverse credibility findings. As to the adjudicator's treatment of the medical report, the grounds contend that the criticism she made of the doctor's diagnostic testing was selective.

7. We are not persuaded that the adjudicator erred in concluding that the appellant had not given a credible account. As the adjudicator noted, the appellant not only failed to mention her account of rape at interview but also made no mention of it to her representatives when she completed the statement of additional grounds which specially asked that she should disclose any additional information not previously referred to. In this regard we should also mention that we are perfectly satisfied that the adjudicator did assess this evidence, as she said she was doing, in the light of the IAA Gender Guidelines. We accept that the adjudicator did not refer to other materials highlighting the very significant underreporting of rape both in Sierra Leone and indeed in certain parts of the UK. But we do not think that they demonstrate that the appellant had genuine reasons for not mentioning the claimed rape earlier than she did. The adjudicator plainly considered this evidence, as she was indeed required to do, in the context of the appellant's evidence as a whole.

8. Mr Deve sought to persuade us that the adjudicator was wrong to identify as implausible the account the appellant gave of being separated from her aunt, since in the chaos in the country at that time there would have been many reasons why close relatives could not keep in touch. However, the adjudicator gave sound reasons for concluding this aspect of the appellant's account did not add up. The grounds fail to explain why the aunt would have felt unable to wait for the appellant simply for her to put on an old gown. We also think the adjudicator was fully justified in noting that the appellant had failed to give a consistent account about whether she had informed her grandmother of her employer's offer of help before leaving.

9. Nor are we persuaded that the adjudicator was wrong to conclude that she could attach little weight to the medical report of Dr Shehadeh. Mr Deve sought to argue that the adjudicator only dismissed the medical evidence because she had not accepted the appellant's account. In our view that argument is ill founded. The adjudicator plainly considered the medical evidence as one piece of evidence that had to be weighed along with the rest of the evidence. She also gave valid reasons for placing little reliance on it as evidence about the appellant's past experiences. Even if we accepted that she was unduly dismissive of his diagnostic methods, she was plainly correct to point out that the doctor's assessment was heavily dependant on what he had been told by the appellant as she was to point out that it was made in ignorance of the fact that the appellant had given divergent accounts of her past experiences. The adjudicator was correct to note that the recommendation for counselling had not been pursued and that the appellant was not on the medication the doctor suggested. We recognise from the additional comments made by Dr Shehadeh that he considers his report was wrongly given little weight. However, in an asylum appeal it is the job of an adjudicator and sometimes the Tribunal to assess the proper weight to be attached to medical evidence, taking into account the wider body of evidence and having tested the appellant's evidence in the context of a hearing.

10. However, having concluded that the appellant failed to give a credible account it still remains to assess whether she would face serious difficulties upon return. We have decided we have to consider this matter for ourselves. The adjudicator's assessment of this issue was unduly limited to what the situation of the appellant would be as a returnee to Sierra Leone like any other. Furthermore, although she considered this issue in the context of asylum and Article 3, she did not consider it, as she should have, in the context of Article 8.

11. Although the appellant had failed to give a credible account of having been raped by rebels, there was sufficient evidence to show that she had been the victim of sexual exploitation in the past, in France, even if not in Sierra Leone and Guinea also. Although the adjudicator properly discounted the medical evidence as an accurate guide to the appellant's past experiences, that evidence did establish that the appellant had some psychological difficulties. Given that the appellant had not undergone counselling or kept to the proper medication it could not be said that this

evidence established that she was severely traumatised. But it did sufficiently establish some level of psychological difficulties. In Dr Shehadeh's words, "She is not in a state of mind which would allow her to reconstruct a new life and new social network..." Furthermore, although she failed to give a credible account of having become separated from her relatives, the objective country materials indicated that there might well be difficulties in the appellant being able to re-establish contact with her relatives.

12. The question thus arises, what conditions will face the appellant upon return? She has failed to demonstrate that she would have a well-founded fear of persecution or of treatment contrary to Art 3. Since the appellant left Sierra Leone the country has entered a peace process commencing with the 1999 Lome Peace Agreement. As the adjudicator herself noted, since November 2000 the government and the rebels have commenced a process of disarmament, demobilisation and reintegration. Despite isolated incidents of violence, the majority of the rebels have laid down their arms and participated in elections. There were no reports of major violence during the recent elections.

13. However, the objective country materials do indicate that upon return it is reasonably likely that she will end up in an IDP camp.

14. As regards conditions facing those in IDP camps, in a letter dated 20 May 2002 the UNHCR UK representative wrote that:

"The vast majority of returning refugees are becoming internally displaced persons (IDPs) upon return, as they are unable to return to their areas of origin. IDP camps are over-stretched, as are UNHCR temporary settlements for returnees who are unable to return home. The total IDP population is estimated at over one million..."

15. In a report to the UN ECOSOC dated 11 February 2002 Special Rapporteur on Violence Against Women, Ms Radhika Coomaraswamy commented on her mission to Sierra Leone in August 2001 as follows: "The Special Rapporteur also highlights her concerns about the appalling conditions in the camps for internally displaced persons..." Her report goes on to mention security concerns of women and children displaced by the conflict in the context of risk of rape and gender-related violence. At paragraph 70 she notes with immediate reference to a camp near Freetown that:

"Rape in the camps is common; families reportedly settle matters themselves through the payment of money. The majority of the women interviewed by the Special Rapporteur were female heads of household and were struggling to make living selling firewood which they collect in the hills behind the camp. Other said they were forced to work as prostitutes to have enough food for themselves and their children to survive."

16. Even giving full weight to Ms Coomaraswamy's assessment, we do not think these materials establish a real risk of treatment contrary to Article 3. That is because the evidence falls short of establishing that the risk of being forced into prostitution is large-scale or that there is a consistent pattern of gross and systematic coercion of women in IDP camps into prostitution. Nor do we think this evidence establishes that for single women returnees who become IDPs there is in general a real risk that their return to Sierra Leone would amount to a disproportionate interference with her right to respect for physical and moral integrity.

17. However, we are satisfied that there are specific factors in this case which would make the decision to return her a disproportionate interference with her right to respect for private life.

18. We base our conclusion on Article 8 on three factors in particular. The first is that we are satisfied, despite serious deficiencies in the account she gave of her past experiences, that there is a reasonable likelihood the appellant has now lost contact with her remaining relatives, her grandmother and brother in particular. Thus upon return to Freetown it is reasonably likely she would not have an existing home or network of family to turn to. It is reasonably likely, therefore, that she would have to join the ranks of persons categorised as IDPs. A second factor is that the appellant has already had exposure to working as a prostitute. Whilst the adjudicator's generally adverse finding of credibility leaves this matter somewhat unclear, we are satisfied there is sufficient evidence before us to show that through her contact with a man who helped her to come to the UK she has worked as a prostitute. Thirdly, albeit falling short of establishing that RUF rebels had raped her in the past, the medical evidence does establish that the appellant suffers from depression and low self-esteem and would have significant difficulties in readjusting to new social networks. Dr Shehadeh also considers, with some justification we think, that given her religious background as a Muslim woman being perceived as an unclean woman would add to her sense of personal alienation.

19. It seems to us that considering these factors in the round the appellant's situation upon return would place her in an extremely vulnerable situation in which her past experience of prostitution and her vulnerable psychological state would make it reasonably likely that she would once again be forced into prostitution. In the absence of any clear evidence that the appellant has ever freely undertaken prostitution, we consider that her resultant situation would violate her right to physical and moral integrity.

20. For the above reasons we dismiss the appeal on asylum and Article 3 grounds but allow it on Article 8 grounds.

**DR H H STOREY  
VICE-PRESIDENT**

