

**THE HIGH COURT  
JUDICIAL REVIEW**

**[2015/164 J.R.]**

**BETWEEN**

**A.F. (NIGERIA)**

**APPLICANT**

**AND**

**THE REFUGEE APPEALS TRIBUNAL,  
THE MINISTER FOR JUSTICE AND EQUALITY,  
THE ATTORNEY GENERAL AND IRELAND**

**RESPONDENTS**

**JUDGMENT of Ms. Justice Stewart delivered on 22nd day of July, 2016.**

**Introduction**

1. This is an application by way of judicial review for an order of *certiorari* quashing the decision of the first named respondent (hereinafter 'the Tribunal'), which affirmed the decision of the Refugee Applications Commissioner (hereinafter 'the Commissioner') to recommend that the applicant be refused a declaration of refugee status. The following reliefs are also sought by the applicant, and include:-

- a. an order remitting the applicant's appeal to be re-determined by a different member of the Tribunal; and
- b. an order of *certiorari* quashing the decision of the second-named respondent refusing a declaration of refugee status to the applicant.

2. The grounds upon which the applicant relies in seeking the above reliefs can be summarised in the following subparagraphs:-

- a.) that the Tribunal erred in law and in fact in rejecting the applicant's claim on the basis of credibility;
- b.) that the Tribunal's finding that it was "*...incredible that he would ever hold hands or show affection to his partner in public... The findings in relation to this evidence go to the core of the appellant's claim*" is based upon conjecture and is therefore irrational. The applicant, in this respect, contends that such irrationality is inherent in the Tribunal's presumption that the applicant should possess the ability to permanently deny the expression of his true feelings. This alleged 'presumption' is contrary, as the applicant contends, to the Yogyakarta Principles and the UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity and was made without regard to the prevalence of exposure of hidden relationships;
- c.) that the rejection of the applicant's explanation of residing in Borno State in Nigeria because he had a house there was unreasonable and/or irrational;
- d.) that the Tribunal's finding that the applicant "*...is not from where he states i.e. Maiduguri, Borno State*" was made without any reasonable assessment of the applicant's evidence and lacks a reliable evidential basis;
- e.) that the finding that "*...no explanation was provided to the Tribunal as to why identifying documents have not been submitted to the Tribunal since the hearing of this appeal and no request was made for additional time*" was made in a breach of fair procedures and natural/constitutional justice in that the Tribunal failed to alert the applicant that the failure to produce further documents after the oral hearing would, in itself, be a reason to affirm the Commissioner's decision;
- f.) that the Commissioner's finding that a mob did not surround the applicant's house where he resided was based wholly upon conjecture;
- g.) that the finding that the absence of newspaper reports relating to the activities of this mob of fifteen people in the November 2013 attack was made without stating any reasons for the rejection of the applicant's explanation that such "*attacks happen daily and not all are reported*";
- h.) that the finding that the applicant's belief that the death of his mother in a fire "*was due to his sexuality*" is based on mere speculation suggests that the Tribunal accepted that the applicant held a subjective fear of persecution such that it was imperative that the Tribunal made a clear and unqualified finding on whether it accepted that the applicant held a subjective fear as a consequence of his sexual orientation;
- i.) the Tribunal failed to state any reason for failing to consider the applicant's interaction with an LGBT group in Ireland, as being in any way corroborative of the applicant's claim;
- j.) that the Tribunal failed to make any findings in respect of the alleged killing of the applicant's partner or the past persecution suffered by the applicant; and,
- k.) that the Tribunal failed to consider the applicant's claim with regard to the country-of-origin reports placed before the

Tribunal. In addition, having determined the claim on the basis of credibility findings, the Tribunal erred in law by foreclosing on speculation relating to future persecutory risk in Nigeria based on the applicant's sexual orientation.

3. Leave to seek judicial review was granted by MacEochaidh J. on 20th April, 2016.

#### **Factual background**

4. The applicant was born on 11th July, 1983, in Nigeria. The applicant submits that he is homosexual and has, in the past, suffered homophobic attacks in both Lagos and Maiduguri, in Nigeria. The applicant maintains that his partner was killed during the Maiduguri attack. The applicant also alleges that his mother died after her home was attacked as part of a homophobic attack that was directed towards him and his partner. It is the applicant's case that he left Nigeria due to the treacherous climate present in that country for homosexuals.

5. The applicant arrived in this State on 14th November, 2013, and applied for asylum. The applicant proceeded through the asylum process, giving oral evidence in relation to his personal history and his fears of returning to Nigeria.

6. The applicant expressed two separate aspects to his asylum application. He first claimed to have previously suffered persecution as a result of his homosexuality. Such attacks were violent in nature and his partner and mother were killed. The applicant contends that there is a reasonable likelihood that he would suffer the same fate in Nigeria, which criminalises homosexual behaviour within the federal State. Arrest and detention at the hands of State and non-State actors was also a concern.

7. The Commissioner rejected the applicant's asylum claim and detailed this decision within the s. 13 report. The Commissioner outlined the applicant's evidence of the alleged violent attack on his house in November, 2013 and also referred to country-of-origin reports which further outlined the ongoing violence that is committed by Islamic insurgents in Nigeria at that time.

8. The Commissioner continued their analysis of the applicant's claim by making a series of credibility findings that focused upon the absence of documentary evidence of the applicant's relationship with his partner, reports of the violent attack on his house, his partner's death, his mother's death and his travel/arrival to this State. In relation to these alleged events the Commissioner found that:-

*"When the issues outlined above are taken cumulatively, it is considered reasonable to conclude that on the balance of probabilities, the benefit of the doubt cannot be afforded to this applicant."*

9. As a result of these adverse credibility findings being found by the Commissioner, neither State protection nor internal relocation would be made available to the applicant.

#### **Analysis of procedural documents**

10. The applicant arrived in this State on 14th November, 2013, and applied for asylum. The applicant's 'ASY1 Form' and questionnaire were completed and signed on 15th November, 2013.

11. On the applicant's 'ASY1 Form', in the section for additional comments arising from the 's. 8 interview', it is stated:-

*"Applicant states never sought asylum in Ireland or any other country before.*

*Applicant states that he has no family in Ireland.*

*Applicant states ethnic origin is Yoruba...*

*Applicant states the following reasons for seeking asylum:*

*That he is a [H]omosexual and he was exposed by his neighbours.*

*That on the 04/11/2013 he was in his house with his partner named A.M., that evening the house was attacked and burned by Islamic [E]xtremist.*

*The applicant's partner named A.M. was killed in the fire and the applicant escaped through a back window. The applicant fled and a Priest named Fr. J. arranged travel for applicant out of Nigeria-did not pay any money.*

*Applicant states that he did not have any documents.*

*Applicant states that he arrived in Ireland hidden in a lorry."*

#### **The s. 8 interview**

12. The accompanying s. 8 interview, which was also completed on 15th November, 2013, states that the applicant has attained a 'senior leaving certificate' in Nigeria, that he had twelve years of formal education in his home country and that his first language is English. The applicant also stated that he had been employed for some seven years in two roles (a music producer and a sales manager) in Lagos and that he is a single male with both his parents still alive, along with two brothers.

13. In Part 3 of the applicant's s. 8 interview report, the pro forma question of "why did you leave your country of origin?" is answered with the following:-

*"I left my country of origin because of fear of been persecuted by the Islamist extremist and the Sharia police. I live in M. in Northern part of Nigeria where I was also born and I live at [address]. I had to flee from my country (Nigeria) because of the series of threat and attack on my life because I am gay.*

*The incident happened on the 4th November 2013 in the evening around past six. I was in my room with my partner Mr. A.M. having sex when I started hearing loud Islamic chanting outside my bedroom window saying you have sinned against Allah and today you shall die. I peeped through the window and saw an angry mob outside accompanied by the Islamic extremist and the Sharia police all armed with different weapons and I began to panic. They started by throwing big stones on my bedroom window and the glasses came shattering all over the room, then they started hitting the door*

*trying to gain entry into the room but they couldn't. After a while there was smoke and flames then I realised the house has been set on fire...I squeezed myself through the window and landed at the side of the house and was sighted by the mob...I took to my heels and ran as fast as I could. I was close to the highway and I was able to get on a bus which dropped me around the area where my priest from the Catholic church lived...I have tried relocating to Lagos but after a while I was attacked because I was a homosexual. I was almost lynched and burnt alive and I barely escaped that was in June 2013...So the only option I have now is to flee because there is not a place for a homosexual in my country right now...gay people are no more accepted in the Nigerian society and the lawmakers have passed the law that anyone caught been (sic) a homosexual should be imprisoned while the Islamist extremists stands on a death penalty...On the 5th Nov 2013 which was the next day after the attack on my life, he started making my travel arrangements, he said the only way to escape from the Islamists and the Sharia law is to travel by sea, and that he would call someone who he knew was into the importing and exporting trade maybe he could put me on a ship heading to Europe...early in the morning the next day on the 6th Nov 2013 we left Nigeria for Libya, I was between the goods at the back of the truck, and we travelled by road for about 4 days...we arrived in Libya on the 16th November 2015 in the morning...we travelled on the sea for days and had a stop over at another European port on the 3rd day...Then we travelled for another day before I arrived at the Dublin port on the 14th November 2013 around noon."*

14. Further in the applicant's s. 8 report, the applicant was asked why he did not report the issue with the State authorities. In reply to this question the applicant states:-

*"I couldn't report my fears to the authorities because the authorities were not in support of homosexuals and they have passed a law that anyone caught in the act should be remanded in prison."*

15. The applicant asserts that he left Nigeria on 6th November, 2013, and he embarked on the journey to Ireland by himself. The applicant maintains that he was aided in his journey to Ireland from Nigeria by his local Catholic priest who facilitated his journey by putting him in contact with an agent. The applicant did not pay a fee for his passage to this State.

#### **The s. 11 interview**

16. The applicant's s.11 interview was conducted on 13th December, 2013, before an authorised officer with the Office of the Refugee Applications Commissioner. The initial questioning focused upon the applicant's alleged relationship with his male partner in Nigeria. The applicant stated that he first met his partner in 2008, but knew of him rather than forming a relationship with him, which came later in the timeline. The ORAC officer asked the applicant for his partner's date of birth, to which the applicant replied that he did not know his partner's birthday. The applicant was also asked whether he possessed any photographic evidence of his alleged relationship with this male partner and replied "[A]ctually we took photographs but I wasn't able to take anything because I had to escape and everything was in the house."

17. The applicant then explains that an alleged attack on him occurred in June, 2013. The applicant states that he *"was in a gay bar, I was there with one of my close friends. I don't know if they were watching me, there were people who don't like homosexuals. On the way home there was a group of people, about 6 of them. They said 'you guys we have been watching you, your behaviour is not acceptable.'"* The applicant was asked how he had escaped from this incident and responded that there was a *"car coming, he put on his full lights to see what was going on. The people were distracted, so we had the opportunity to escape."*

18. The ORAC officer continued by questioning the applicant with regard to the death of his mother, who, it is maintained, died in October, 2013. The applicant maintains that the alleged incident leading to his mother's death occurred as he *"didn't know that people had watched me coming to the house with my partner. They had watched me for a while. Luckily the night they came to attack the home I was not there that night. They set fire to the house. My mother was in the house. She was taken to the hospital. She died from her injuries after a week."* It is notable that the applicant did not report this incident to the Nigerian police, as he *"just had to flee"*. The applicant later expanded on why it was that he did not report the incident to the Nigerian police force, stating that *"the islamics and the government and the law makers have passed a law against gay people."* The applicant confirmed at Q. 37 that he did not possess any documentary evidence regarding his mother's death but that he had made inquiries concerning same.

19. The applicant describes how he felt attracted to males from a young age, particularly in his teenage years, and that these feelings of attraction continued with him from primary to secondary school. The applicant's sexuality did cause him problems when he lived in Nigeria, as he maintains that *"people mistreat me, say abusive things, try to put me down."*

20. The ORAC officer also questioned the applicant on his alleged escape from the November, 2013 attack on his home. The applicant asserts that the Islamist extremist mob comprised approximately fifteen people, although there could have been more. This attack burned the applicant's house down and it also killed his partner. The applicant was unaware if the local, or indeed national media, had reported on this incident and did not possess any evidence in this regard. Additionally, the applicant does not possess any records of his partner's death.

21. The applicant explained that he arrived at Dublin port on 14th November at night time. He was not confronted or questioned by any immigration officer. Upon arrival in this State, the applicant did not possess any identity or travel documents. The s. 11 interview was signed by the applicant and ORAC's authorising officer.

#### **The s. 13(1) report analysis**

22. The applicant's s. 13 report, as compiled pursuant to the statutory provisions of the Refugee Act 1996 (as amended) was conducted by ORAC, with its recommendation dated 16th January, 2014.

23. In section 3.2 of the report, the series of events as alleged by the applicant are set out in clear detail and appear to be in a chronological order. The applicant also maintained that he had suffered previous incidents of violence in Lagos in June, 2013 and most seriously in Kwara State in October, 2013. In the October attack, the applicant maintains that his mother was killed. The applicant recounts the October attack in the following terms:-

*"Kwara State is where my mother lived. I didn't know that people had watched me coming to the house with my partner. They watched me for a while. Luckily the night they came to attack the home I was not there that night. They set fire to the house. My mother was in the house...She died from her injuries after a week."*

24. The applicant states his fear of "Islamic extremists" who are, he maintains, almost institutionalised within the State architecture. *"[T]hey have this kind of Sharia police, they consist of these Islamic extremists, they pass judgement on anybody who they see is unclean. The government themselves have now even put into law against homosexuals."*

25. The ORAC determined in the 'Well Founded Fear' section that "[I]t is difficult to substantiate in any real or meaningful way if the events the applicant describes have actually occurred in Nigeria, given the inherently subjective nature of much of his claim." Having had regard to article 5 (3) of the European Communities (Eligibility for Protection) Regulations 2006, ORAC proceeded to assess the applicant's account and relevant country-of-origin data. In its determination, the ORAC concluded that "[W]hen the issues outlined above are taken cumulatively, it is considered reasonable to conclude that on the balance of probabilities, the benefit of the doubt cannot be afforded to this applicant; therefore it is considered this applicant has not demonstrated that there is a reasonable degree of likelihood that he would face persecution if he were to return to Nigeria."

26. The ORAC also assessed the applicant's 'State Protection' claims in its report and accepted that, having recourse to the country-of-origin information, the LGBT community does face treatment in Nigeria that amounts to persecution. Notwithstanding this finding, ORAC did not accept that the applicant had successfully proved a well founded fear of persecution.

27. The applicant appealed the ORAC determination to the first-named respondent.

#### **RAT determination**

28. Section 5 of the RAT's determination focuses upon the applicant's credibility. The RAT accepted a person who is homosexual in Nigeria is susceptible to laws and attacks that could amount to persecution. This acceptance was based upon an analysis of the country-of-origin information submitted to the Tribunal. In particular, the Tribunal referenced the 2014 legislation that criminalised homosexuality, with offenders facing up to 14 years' imprisonment. The crucial issue that the Tribunal had to assess, therefore, was whether the present applicant is homosexual. In this regard, the applicant submitted a letter from the 'Belong to Youth Service'. This group purports to help members of the LGBT community in Ireland. The applicant is allegedly a member and participant in their campaigns. The Tribunal determined, however, that this letter in and of itself is not sufficient evidence to establish that the applicant is homosexual. The entirety of the evidence, as the Tribunal states, would have to be assessed in order to reach a determination on this issue.

29. In section 5.4 of the Tribunal's determination document, the applicant's alleged homosexual relationship is assessed. The Tribunal made the following summation:-

*"The appellant stated at the hearing that Sharia police and Islamist fundamentalists found out he was gay because a neighbour told on him as he had seen him and his partner going out holding hands and showing affection. It was put to him that he had stated at the interview that he was not open about this relationship and he was asked to explain this discrepancy in his evidence and he replied that they were heard having fun and they mostly tried to keep it secret. It was put to him that it seems incredible that he would ever hold hands or show affection to his partner in public since he lived in an area where Sharia law operates and where he was aware that homosexuals are killed by stoning and he even knew one of the men who was stoned to death. He said in response that maybe he had made a mistake in saying they were open with relationships at times, maybe they held hands but were trying to keep it a secret. The appellant's evidence in this regard is not believed."*

30. The Tribunal also reached this credibility finding with reference to the appellant's apparently voluntary relocation to a State in Nigeria that is openly hostile to homosexuals. The applicant's lack of knowledge of the State to which he allegedly relocated was another contributing factor for the Tribunal's adverse credibility finding.

#### **The Maiduguri attack**

31. The Tribunal did not find the applicant's account of the alleged attack in Maiduguri credible. The Tribunal, in particular, found it difficult to believe that a "mob" intent on causing the applicant and his partner grave harm would not surround the appellant's dwelling because the rear of the property was "a bit bushy".

32. The Tribunal did not believe the applicant's evidence in relation to the alleged death of his mother in the October, 2013 attack. The appellant maintained that he reported the death to the police but that he did not submit the death certificate as he did not know from whom to get it. These factors resulted in the Tribunal reaching the conclusion that there was no well-founded fear of persecution on the applicant's behalf.

33. The applicant was notified by the second-named respondent of the decision not to grant him refugee status by letter dated 6th March, 2015.

#### **Applicant's submissions**

34. Mr. O'Halloran, B.L. submitted that the Tribunal erred in law in failing to consider whether the anti-homosexual laws in Nigeria exposed the applicant to persecution contrary to regulations 9(2) (b) and (c) of the European Communities (Eligibility for Protection) Regulations 2006. Counsel relied upon the decision in *P.D. v. The Minister for Justice and Law Reform* [2015] IEHC 111. Counsel also contended that the Tribunal made its adverse finding based on conjecture, as it was not clear that the applicant had expressed his sexuality publicly and relied upon *I.R. v. Minister for Justice* [2009] IEHC 353. Furthermore, it is contended that the Tribunal based its decision on an unlawful precondition that is prohibited by the jurisprudence of the Court of Justice of the European Union, particularly the decision in *A, B & C v. Stasstssecretaries van Veligheid en Justite* (2nd December, 2014, C148/13, C149/13 and C150/13).

35. Counsel also contended that the Tribunal utilised the incorrect balance of probabilities test throughout the decision reached. *Karanakaran v. Secretary of State for the Home Department* [2000] 3 All E.R. 449 was relied upon in support of this submission.

#### **Respondent's submissions**

36. Counsel for the respondent, Ms. Duggan, B.L., submitted that the Tribunal's decision was clear and concise, and when read in a holistic manner, clearly surmised that the applicant's account of events was not credible. As a result of this finding, there was no well-founded fear of persecution. It appears that the respondent also rejected the applicant's account of how his mother died in 2013 as not credible.

37. Counsel for the respondent submitted that the Tribunal afforded the appropriate weight for the applicant's evidence with regard to incidents in Nigeria and that all documentation was considered by the Tribunal, including country-of-origin information that was proffered on the applicant's behalf.

38. The respondent relies heavily upon the decision of Cooke J. in *I.R.* in regard to the principles accepted on the issue of credibility.

39. With regard to the 'Belong To' letter, the respondent submit that the Tribunal did not fail to consider this piece of evidence, but weighed it within the context of all of the evidence submitted to the Tribunal on the applicant's behalf.

40. The respondent also submits that the Tribunal member is the best placed person to make the decision and that, unless there is a decision reached which is irrational and unreasonable, said decision should still stand. *Meadows v. Minister for Justice* [2010] 2 I.R. 701 sets out the approach that should be adopted by the court in judicial reviews.

41. Regarding the fair procedure ground of appeal, the respondent submits that s. 11 C of the Refugee Act 1996 bestows a positive duty upon the applicant to proffer any relevant information to the Tribunal so that a comprehensive analysis can take place. This does not prohibit such evidence being submitted after the hearing has begun.

42. The respondent also denies that the Tribunal had insufficient recourse to the 'Yogyakarta principles' and the 'UNHCR Guidance Note on Refugee claims Relating to Sexual Orientation and Gender Identity'.

### Decision

43. The judgment of Peart J. in *Da Silva v. Refugee Appeals Tribunal* [2004] IEHC 436 provides guidance regarding the alleged use of conjecture in this present matter by the Tribunal member. Peart J. states:-

*"One's experience of life hones the instincts, and there comes a point where we can feel that the truth can, if it exists, be smelt. But reliance on what one firmly believes is a correct instinct or gut feeling that the truth is not being told is an insufficient tool for use by an administrative body such as the Refugee Appeals Tribunal. Conclusions must be based on correct findings of fact."*

This requirement must be viewed in light of Birmingham J.'s comments in *M.E.* at para. 42:

*"On the other hand, a Tribunal Member is not expected to accept without challenge or question every account given to him or her. Rather, he or she is expected to weigh, assess, analyse and draw inferences."*

44. The Tribunal member's findings in regard to the applicant's alleged displays of affection come within the definition of assessment, analysis and inference. If it was the applicant's case that he and his alleged partner never expressed affection in public, but were caught in a private moment, it was his responsibility to set this out in his case. Instead, according to the impugned decision, he stated that *"they were not open all of the time"*. This is sufficient to ground the inference that they were open sometimes.

45. The applicant's reliance on the case of *A, B & C* is misconceived. The respondent's finding is not based in a stereotype or pre-conceived notion that homosexual individuals should keep their relationships secret. It is based on the reasonable conclusion that an individual would take care to avoid precipitating events that endanger his wellbeing. This notion applies to people in general and not specifically to homosexuals.

46. It seems to me that this is a classic case of the applicant seeking in their approach to deconstruct the decision of the Tribunal Member. This Court on judicial review cannot substitute its own view of what may or may not have occurred for that of the Tribunal's. This Court is confined to ensuring that the process adopted by the Tribunal Member in arriving at the decision was legally sound. The principles applicable in matters of appellant credibility before the Refugee Appeals Tribunal are set out in the seminal judgment of Cooke J. in *I.R. (Supra)*. It is not necessary to reiterate the principles set out therein at this juncture. However, it had been stated previously, and I reiterate, that the court should be wary of arguments seeking to deconstruct the overall decision into individual isolated parts in a manner that would not have regard to the cumulative effect of the presentation of the applicant. The Tribunal Member had the opportunity to see and observe the applicant and to assess the manner in which he gave his evidence. The presenting officer further questioned the applicant in relation to potential conflicts in the evidence given at his initial s. 8 interview and the subsequent s. 11 interviews. This Court does not have such an opportunity and it would be inappropriate in a judicial review application for such a process to be conducted. The sole concern of the Court is to ensure that the procedures adopted were fair and legally sound.

47. It seems to me that the Tribunal Member was satisfied, given the state of the law in Nigeria in respect of the criminalisation of homosexuality and the criminal sanctions that attach thereto, that the applicant could be at risk of persecution should he be returned to Nigeria. Central to this whole decision, therefore, was the applicant's credibility in respect of his assertion that he is homosexual. The Tribunal Member did not find his evidence credible in this regard. The applicant complains that the Tribunal Member failed to have regard to the letter from "BELONG", a support group for LGBT persons. However, two things must be said in that regard. Firstly, the submission of a letter from the "BELONG" group in of itself does not constitute evidence that the applicant is gay. Secondly, it is clear from reading the Tribunal Member's decision that they were aware that such a letter was submitted on behalf of the applicant. There appears to be some confusion because there appears to have been two letters. The first is undated but is submitted with the covering letter dated the 14th March, 2014. There is a further letter dated 28th October, 2014, from "BELONG", which again purports to set out the applicant's participation in the group. I also note that the document has the annotation "By applicant's solicitors" written in handwriting at the top right hand corner. I note that other documents in the country-of-origin information have "By applicant" written on some, "By T.M." on others and "By P.O." on others. The Tribunal Member, at para. 5.1, states:

*"Country of origin information, submitted on behalf of the appellant, outlines the attacks perpetrated against members of the gay community in Nigeria and also outlines the legislation introduced in 2014 which criminalises homosexuality with the imposition of prison terms of up to fourteen years for breaking the law. It is clear from this information that the attacks on these members of society could amount to persecution and therefore, in the instant claim the issue to be decided is whether the appellant's claim of being a gay man is considered credible."*

At para. 5.2, the Tribunal Member proceeded to state:

*"The appellant submitted an undated letter from BELONG to Youth Service supporting lesbian, gay, bisexual and transgender young people in Ireland which states that he has been accessing the service for support. The submission of this letter does not of itself, confirm the appellant's sexuality and instead it must be viewed [sic] in the context of all of the evidence given and an assessment of that evidence"*.

48. The applicant seeks to place great emphasis on the assertion that the Tribunal Member effectively ignored the second letter from "BELONG" and therefore the decision is somehow fundamentally flawed. I do not accept this proposition. The Tribunal Member clearly was aware that the applicant was attending the "BELONG" group and that the letter asserts that he was accessing the service for support. The second letter reiterates this information together with asserting a certain history as related to "BELONG" by the applicant. The Tribunal Member did not ignore or disregard the communication from "BELONG", but stated that it must be viewed in the context of all of the evidence given and assessed by the Tribunal Member. I see nothing wrong with the approach taken by the Tribunal Member.

49. The Tribunal Member correctly identified that the issue to be determined by the Tribunal was whether or not the applicant's claim that he was a gay man was to be considered credible. The Tribunal Member reviewed the applicant's evidence in regard to the attack in Laos, his relationship with his alleged partner, his moving to Borno, his knowledge of Maiduguri, his failure to provide any documentary evidence to the Tribunal and his information given in relation to his mother's alleged death in a house fire in October 2013 (he having stated at his initial interview that both his parents were alive). When viewed cumulatively, the Tribunal Member concluded that his claim to be a gay man was not credible.

50. It seems to me that the Tribunal Member approached the matter correctly, looked at all the relevant evidence and arrived at a conclusion based upon the totality of that evidence. It is not for this Court to substitute its view of the evidence for that of the Tribunal Member.

51. For the reasons set out above, I am satisfied that the Tribunal Member acted lawfully and within jurisdiction in the manner with which she arrived at her decision. I therefore refuse the reliefs sought.