



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

Appeal Number: PA/07298/2018

THE IMMIGRATION ACTS

Heard at Field House

On 1st October 2018

Decision & Reasons

Promulgated

On 8th November 2018

Before

**UPPER TRIBUNAL JUDGE BRUCE
DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

Between

**P A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure
(Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Representation:

For the Appellant: Mr A Eaton, Counsel, instructed by Duncan Lewis & Co Solicitors

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is a challenge by the Appellant against the decision of First-tier Tribunal Judge R L Walker (the judge), promulgated on 12 July 2018, in which he dismissed the Appellant's appeal against the Respondent's refusal of his protection and human rights claims. The Appellant's case had been based upon alleged involvement, or perception of involvement, with the LTTE in Sri Lanka and resulting detentions. It had been said that an arrest warrant had been issued against him and there had been harassment of family members as a consequence of that.

The judge's decision

2. The judge, having set out various aspects of the evidence, made numerous adverse findings set out in [32]-[49]. The findings related to issues under section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, doubts over the reliability of documentary evidence and the process by which this was obtained, the manner in which the Appellant claims to have left Sri Lanka, and the contents of an expert medical report. As a result of his findings the judge found that the Appellant would not be at risk on return and duly dismissed the appeal.

The grounds of appeal and grant of permission

3. The grounds of appeal put forward a number of challenges to the judge's decision related to his treatment of, or perhaps more specifically his failure to address, corroborative evidence, the way in which the judge dealt with medical evidence, the issue of risk on return, and country information on the possibility of individuals leaving Sri Lanka via the airport notwithstanding an adverse interest in them by the authorities.
4. Permission to appeal was granted by First-tier Tribunal Judge Page on 20 August 2018.

Decision on error of law

5. Following what was clearly a useful and sensible pre-hearing discussion between the representatives, Mr Clarke has in our view very fairly acknowledged that the judge did materially err in law. Mr Clarke has specifically accepted that grounds 1 and 4 have been made out, namely that the judge failed to deal adequately, or indeed at all, with various items of corroborative evidence, and failed to have due regard to country

information as regards the ability of the Appellant to have left through the airport.

6. In our view, in addition to Mr Clarke's realistic concessions, the other grounds are made out as well, in particular ground 2. The judge, in our view, failed to deal adequately with the medical report, treating it as something of an afterthought rather than particular and parcel of the evidence as a whole. In any event, he also failed to direct himself correctly to the contents of the report. It was the view of the expert that not only was the Appellant suffering from mental health problems, but that scarring on his body was "typical" of particular injuries alleged to have been caused by the Sri Lankan authorities, and not simply "consistent", as the judge stated in [47] of his decision.
7. The errors are clearly material and the judge's decision must be set aside.

Disposal

8. It is clear to us, and indeed the representatives agree, that this matter must be remitted to the First-tier Tribunal for a complete rehearing with no findings of fact preserved. In light of paragraph 7.2 of the Practice Statement this is the appropriate course to take and appropriate directions will be issued for the First-tier Tribunal.

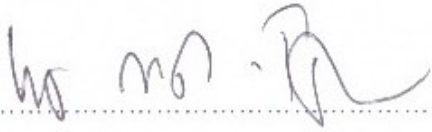
Notice of Decision

The decision of the First-tier Tribunal contains errors of law and is set aside.

The appeal is remitted to the First-tier Tribunal.

Directions to the First-tier Tribunal

- 1. This appeal is remitted for a complete re-hearing with no preserved findings;**
- 2. The appeal shall not be re-heard by First-tier Tribunal Judge R L Walker;**
- 3. The central issues in the appeal remain the credibility of the Appellant's account and risk on return.**

A handwritten signature in black ink, appearing to read 'Norton-Taylor', written over a horizontal dotted line.

Signed

Date: 4 October 2018

Deputy Upper Tribunal Judge Norton-Taylor