



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/08056/2017

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre
On 11th September 2018

Decision and Reasons Promulgated
On 18th September 2018

Before

UPPER TRIBUNAL JUDGE COKER

Between

ALEXANDER [K]
(anonymity direction not made)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Clarke of Broudie Jackson and Canter
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The respondent refused the appellant's claim for international protection for reasons set out in a decision dated 4th August 2017. First-tier Tribunal Judge Devlin dismissed his appeal in a decision promulgated on 15th February 2018 following a hearing on 11th January 2018.
2. The appellant sought and was granted permission on the grounds that the First-tier Tribunal Judge had failed to place any or any adequate weight upon the expert evidence provided by Dr Chenciner and had reached a flawed assessment of credibility.

3. The appellant, through his representative, submitted that the judge had failed to give any or any adequate reasons for rejecting the expert opinion report and that the judge had placed undue weight upon the screening interview which had not been read back to the appellant and a copy of which had not been provided thus enabling him to correct errors, failed to consider and make findings on what were claimed to be significant elements of the appellant's evidence (including his assertion that he had been raped whilst in detention), did not put to the appellant matters which he then held to be adverse to the appellant.
4. Mr McVeety acknowledged the limited weight placed on the expert report and that there appeared to be extensive forensic examination of small issues.
5. Although in general terms matters of weight are for the determining judge, in this case the First-tier Tribunal judge placed considerable weight on what could be considered minor discrepancies in the appellant's account, failed to consider or give reasons for not placing weight on matters that might be of relevance and in essence disregarded the report of Dr Chenciner for little or no reason.
6. I am satisfied that the First-tier Tribunal judge materially erred in law for these reasons and I set aside the decision to be remade.
7. Although there has been a hearing of this appeal, the findings are significantly tainted and I set them aside totally. The appeal is required to be remade with no findings preserved; the facts are disputed or unclear and I conclude that the decision should be remitted to a First-tier Tribunal judge to determine the appeal.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I set aside the decision and remit it to the First-tier Tribunal to be remade, no findings preserved.

Date 14th September 2018



Upper Tribunal Judge Coker