



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

Appeal Number: PA/00552/2018

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 4<sup>th</sup> January 2019**

**Decision & Reasons**

**Promulgated**

**On 29<sup>th</sup> January 2019**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**PB**

**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr N Paramjorthy

For the Respondent: Mr N Bramble

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Appellant with permission granted by a Judge of the Upper Tribunal on 21<sup>st</sup> November 2018.
2. The appeal before the First-tier Tribunal was by a Sri Lankan Appellant who had sought asylum on the basis that he was of continuing interest to the authorities in Sri Lanka because of his family's links to the LTTE and in particular his brother's continuing interest to the authorities. That brother has been given refugee status in the UK.

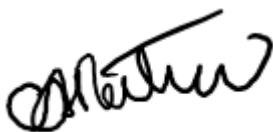
3. Judge Devittie dismissed the appeal and, in a brief Decision and Reasons, gave no adequate consideration to the brother's situation and the fact that he is of continuing interest. That is clearly relevant to this Appellant's situation. He also failed to deal adequately with the medical evidence concerning the Appellant's scars.
4. The Judge refers to the medical report at paragraph 7 of the Decision and Reasons where he says "it is clear from the medical report that the doctor was not able to give a date as to when the injuries could have occurred nor was he able to rule out in each instance that these injuries could have been sustained accidentally. In other words they were equally consistent with having been caused by accidental means". In fact that does not accurately reflect what the expert said. That report is contained in the Appellant's bundle and at page 38 of the bundle in the "Summary and Conclusions" section the expert, Dr Izquierdo-Martin, says that the scars are "consistent/highly consistent with injuries intentionally and unwillingly caused by a third party. This means that they are not fully specific and other alternate explanations are also possible, such as accidental mechanisms of injury; however in my opinion this possibility is less likely in view of the appearance of the scars, which they did not show any inconsistencies with the description of events".
5. For those reasons I find that the First-tier Decision and Reasons is fatally flawed and must be set aside in its entirety.
6. Mr Bramble on behalf of the Secretary of State accepted that was the case and both representatives agreed that the appropriate way forward was for this case to be remitted to the First-tier Tribunal for a full rehearing on all issues by any judge other than Judge Devittie. The appropriate hearing centre is Taylor House.

### **Decision**

The appeal to the Upper Tribunal is allowed to the extent that the Decision and Reasons is set aside and the appeal remitted to the First-tier Tribunal at Taylor House for a full rehearing.

### **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 their 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.



Signed

Date 18<sup>th</sup> January 2019

Upper Tribunal Judge Martin