



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

Appeal Number: PA/00496/2019

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 14<sup>th</sup> June 2019**

**Decision &  
Promulgated**

**On 1<sup>st</sup> July 2019**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE**

**Between**

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

Appellant

**and**

**RM**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr L Tarlow, Senior Home Office Presenting Officer

For the Respondent: Mr J Siriwardena (Counsel) instructed by Marsh and Partners Solicitors.

**DECISION AND REASONS**  
**EXTEMPORE JUDGMENT**

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

1. Anonymity having previously been ordered in the First-tier Tribunal and there being no application to remove the order, I see no reason to do so and the order remains in place. 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.

2. The Respondent appeals the decision of First-tier Tribunal Judge Oliver promulgated on 12<sup>th</sup> April 2019 whereby he allowed the appeal against the decision to refuse to grant asylum or ancillary protection. Permission to appeal was granted at the First-tier Tribunal by Judge Saffer on 10<sup>th</sup> May 2019 on the basis that it was arguable that the First-tier Tribunal Judge had not given adequate reasons for the findings made.
3. Turning to the Grounds of Appeal the first point is that evidence which was not put before the First-tier Tribunal was sufficient to show determinatively that the Appellant had misled or lied to the Tribunal and had fabricated evidence. There had been no application under Rule 32 to adduce additional evidence in support of the argument concerning error and the evidence referred to was not attached to the application. Mr Tarlow invited me to receive the evidence today but when I pressed him as to whether there is a proper submission that he could make as to why I should do that he was unable to add or make such a submission. In those circumstances I declined to admit the evidence.
4. The next point in the grounds relates to the treatment of the Appellant's assertion that he had lost his eye in the context of detention and ill-treatment when he returned to Sri Lanka from the UK in 2011. The Appellant's case had been previously considered by an Immigration Judge, Judge Pedro, and on this particular point the judge found that the Appellant had failed to establish, as he had asserted, that he had his eye before he travelled to Sri Lanka and lost it during the visit. Judge Pedro pointed out that the Appellant was in receipt of medical treatment in the UK through his GP and that there was reasonably available evidence which he could have brought forward to support that contention if it were true.
5. A fair and complete reading of the decision shows that rather than, as Mr Tarlow submitted before me, Judge Oliver leaving that matter as unresolved, the judge has found that the Appellant has still failed to establish the point. In the context of Judge Oliver's decision, I note that he says Judge Pedro's decision cannot be faulted on the information then available before going on to note (paragraph 40) that before him there is still no evidence from the appellant's GP at the time to show that he had no eye injury before his visit. The indication is clear that the judge is not moving away from that earlier finding.
6. In respect of the grounds criticising Judge Oliver's treatment of the diagnosis of post-traumatic stress disorder, which is set out at paragraphs 6 to 10, the complaint is made that Dr Lawrence, about whose expertise there has been no question, did not make a definitive causative finding and that that was something that severely undermined the Appellant's

case and which Judge Oliver failed to factor into account. At the hearing before me Mr Tarlow criticised Dr Lawrence's report and diagnosis of post-traumatic stress disorder on the basis that the report appears to have simply relied on an uncritical adoption of the Appellant's account.

7. Judge Oliver found at paragraph 40 that there was strong expert evidence submitted of the Appellant's severe depression and post-traumatic stress disorder and at paragraph 42 remarks that Dr Lawrence, taking into account his expertise and his expressly recognising as a necessity the checking of an Appellant's account against more objective criteria than his historical account, clearly shows that the judge appreciated the need to be satisfied that the expert evidence was not flawed by an uncritical reliance on the Appellant's account. In the submissions that I have heard today I have been taken to Dr Lawrence's report which is of some 53 pages and appears in the Appellant's bundle starting at page 111. There are many instances where the doctor has shown full competence of the need to check objectively the symptomatology being reported by the Appellant and has cross-referenced to other information that has been before him and explained the conclusion he has reached as to why the Appellant has not been simulating the various symptoms that he has been describing. The report is not individualised by paragraph numbers but the relevant parts are at 128 and 129. Judge Oliver had a proper basis upon which to conclude that the report was strong evidence. I reject the submission that the First-tier Tribunal's finding that the expert evidence is reliable and capable of supporting the Appellant's account of ill-treatment is flawed and unsustainable.
8. The fact that the judge accepted that the Appellant had been detained is clear from a fair reading of paragraph 44 when he refers to the Appellant having been in detention.
9. The next grounds challenge the reliance that Judge Oliver placed on the documentation received from Sri Lanka from a lawyer. The criticism is that the judge failed to take account of the Respondent's assertion that the Sri Lankan lawyer's credentials could not be verified. I find no merit in this ground. The judge's decision makes plain right at the very beginning of his consideration that at the start of the hearing the Appellant's representative was critical of the Respondent's treatment of that documentation and that at the hearing the challenge that the lawyer was not a member of the Sri Lankan bar was dealt with, and it was established on the evidence that he was. In that regard Judge Oliver also placed reliance on the judicial review proceedings in which the very documents referred to were relied upon as being sufficient to amount to a new claim, and at paragraphs 11 to 18 Upper Tribunal Judge Perkins has set out with clarity that the Respondent's treatment of those documents was in essence cursory and the reliance, reiterated in these grounds, on the fact that the Appellant had been found to lack credibility, including in terms of producing false documents previously, was an insufficient basis upon which to reject the new documents that had arrived because they were court documents which had been authenticated. It appears that despite

that reasoning made available to the respondent in July 2018, by the time this case came in front of Judge Oliver on 12<sup>th</sup> April 2019, the objections were in essence the same.

10. I am satisfied that the judge's conclusion that the Respondent had failed to show that the documents were false as alleged is unassailable. The point is particularly significant because a fair reading of this decision shows that it was the existence of the arrest warrants, not the fact that the Appellant had lost his eye, that led Judge Oliver to conclude that the Appellant was on a stop list and that in that context would be at risk on return. On the face of the as to the reliability of those court documents the judge's conclusion in respect of risk on return is soundly made out and reasoned.
11. The grounds at paragraph 16 make brief reference of complaints made against the documentation, namely that one was produced a few weeks after the Appellant's asylum appeal was dismissed on 8<sup>th</sup> January 2013, and that there is a delay in the production of another document between the date of complaint and the date of signature, but neither are matters which significantly impinge upon the judge's conclusions as to the veracity of the documents in light of the weight that the judge has placed on the authenticated provenance of the documents. Plainly the question of provenance outweighs the points referred to at paragraph 16.
12. The final grounds amount to an assertion that the Appellant simply never had the profile which would make him of interest. Both criticisms fall away in light of the finding that he is the subject of an arrest warrant and that he would be on a stop list.

### **Decision**

13. I find no error of law and the decision of the First-tier Tribunal allowing the Appellant's appeal stands.

Signed



Date 27 June 2019

Deputy Upper Tribunal Judge Davidge