



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

Appeal Number: PA/02509/2019

**THE IMMIGRATION ACTS**

**Heard at Manchester Civil Justice Centre  
On 5<sup>th</sup> November 2019**

**Decision & Reasons Promulgated  
On 8<sup>th</sup> November 2019**

**Before**

**UPPER TRIBUNAL JUDGE COKER**

**Between**

**G S  
(anonymity order made)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr J Greer, instructed by Parker Rhodes Hickmotts solicitors  
(Bradmarsh Way)

For the Respondent: Mr A Tan, Senior Home Office Presenting Officer

**ERROR OF LAW AND DIRECTIONS**

**Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant in this determination identified as GS. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings**

1. The purpose of a decision is to enable each party to know and understand the reasons why an appeal has been either successful or unsuccessful. The decision of First-tier Tribunal Judge Devlin in this appeal promulgated on 3<sup>rd</sup> May 2019 does not do this.
2. In a 45 page, closely typed, lengthy, rambling decision that does not appear to have been proof read, the judge refers to matters which have no relevance to the decision he has to make, for example the lack of explanation why professional translators made a mistake in translation of a document which they then corrected; raises the lack of signing of a GP medical report as an issue despite the fact that it is stamped by the surgery but fails to state whether he accepts the content or not.
3. The judge refers to some of the appellant's evidence being plausible or implausible or not inherently implausible but fails to make an actual finding on that evidence. Plausibility is not a finding of credibility or lack of credibility but an expression of an opinion that a matter may be credible. The judge states that such matters affect the weight to be given to the evidence without stating how or why that is the case or what he has done with that evidence in his assessment. The judge identifies a series of five discrepancies, refers to a lack of "clear and unequivocal evidence" in support of two claims made about the Gorran Party and the withdrawal of cheques, refers to a lack of "independent evidence" regarding money paid, refers to an unexplained failure to obtain copies of court documents. He states that none of the account can be discarded as inherently implausible, yet refers to considerations that affect the weight attributable to the claim. The judge then refers to "negative pull", "strong negative pull" and "significant positive pull" but even reading the decision several times it is not possible to identify which elements fall within which category or why the judge has determined that overall the appellant's account is disbelieved "even to the lower standard".
4. The grounds of appeal relied upon included an extract from Counsel's record of proceedings which does not seem to be contradicted by the judge's record and was not challenged by Mr Tan. Questions were not put to the appellant on matters that the judge stated the appellant had been vague; explanations were given for some matters that the judge said no explanation had been given. It may be that the judge rejected the explanation offered but if so, reasons should have been provided.
5. The judge has not explained on what basis he considers the appellant could have obtained "clear and unequivocal evidence" or why "independent evidence" is required in a corruption case or could in any event have been obtained without risk. The judge has singularly failed to consider the appellant's evidence holistically, writing a decision that gives an appearance of addressing particular paragraphs in the reasons for refusal letter rather than addressing the appellant's evidence of his account in the context of his claim and the country he has come from.

6. This decision cannot stand. There are no clear reasoned findings by the judge of the credibility of the appellant's claim.
7. I set aside the decision to be remade.
8. It is not possible to retain any findings made by the First-tier Tribunal judge – there are virtually none that can be identified with any accuracy.
9. I am satisfied that the facts are disputed or unclear and I conclude that the decision should be remitted to the First-tier judge to determine the appeal *de novo*.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

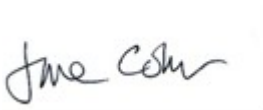
I set aside the decision and remit the appeal to the First-tier Tribunal for hearing, no findings preserved.

Anonymity

The First-tier Tribunal made no order pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

I make an order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Date 7<sup>th</sup> November 2019



Upper Tribunal Judge Coker