



**Upper Tribunal
(Immigration and Asylum Chamber)**
IA/44682/2013

Appeal Numbers:

IA/47515/2013

IA/47516/2013

IA/47517/2013

IA/47518/2013

THE IMMIGRATION ACTS

**Heard at Manchester
On 1 October 2014**

**Determination
Promulgated
On 2 October 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE PLIMMER

Between

**HR
FA
RR
FR
RR**

(ANONYMITY DIRECTIONS MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Solanki (Counsel)
For the Respondent: Mr McVitty (Home Office Presenting Officer)

DECISION AND DIRECTIONS

1. The appellants are citizens of Libya. They appeal with permission against a decision of First-tier Tribunal Judge Crawford dated 13 March 2014 in which he dismissed the appeals under the Immigration Rules and under Articles 2, 3 and 8 of the ECHR.
2. At the beginning of the hearing Mr McVitty indicated he did not oppose the appellants' appeals or that they should be remitted to the First-tier Tribunal. I have no hesitation in concluding that Mr McVitty was entirely correct to adopt this approach. Judge Crawford seems to have entirely misunderstood the first appellant's claimed background and how that is reasonably likely to give rise to a real risk of harm in Libya. Although the determination runs to some 24 pages, the Judge addresses Article 3 in a single paragraph [22]. The Judge has wrongly stated that "*there is no evidence that the first appellant is on a wanted or targeted list. The first appellant is simply somebody that would have been required to show loyalty to the Gaddafi regime...*". This finding is wholly inconsistent with clear evidence in the appellants' bundle: (1) in his statement the first appellant said that he "*was a very active member of the Revolutionary Committee in Libya*" under the Gaddafi regime and it is his close involvement which facilitated his UK scholarship; (2) the first appellant's name is included in a wanted list (pg D86 of the bundle before the Judge).
3. It follows that the Judge's findings on Article 3 wholly fail to take into account relevant, significant evidence going to the very heart of the first appellant's Article 3 claim. I note that the grounds of appeal against the respondent's decision do not raise Article 3 of the ECHR. Mr McVitty indicated that he did not wish to take any point regarding this however this should be rectified in accordance with my directions below.
4. The Judge also erred in law in failing to take the evidence set out in paragraph 2 into account before concluding that there would be no insurmountable obstacles for any of the appellants, and the family including the first appellant could simply adapt into Libyan life.

Remedy

5. This is a case in which the First-tier Tribunal made a fundamental error of law going to the heart of the key issues for determination under Articles 3 and 8. There has simply been no fact finding in relation to the first appellant's background. With the agreement of the parties, I have concluded that the decision should be remitted to a First-tier Tribunal Judge other than First-tier Tribunal Judge Crawford to determine the appeal afresh, with all issues at large, at Manchester Piccadilly.
6. I am satisfied that there are highly compelling factors, falling within paragraph 7.2(b) of the Senior President's Practice Statement that the decision should not be re-made by the Upper Tribunal. It is clearly in the interests of justice that the appeal of the appellants be

heard afresh in the First-tier Tribunal.

Decision

7. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law and I set aside the decision.

Anonymity

8. The First-tier Tribunal did not make an anonymity order but I do so because this determination refers to sensitive matters relevant to the appellants' asylum claims.

Directions

9. Within 28 days of the promulgation of this decision the appellants shall:
 - (1) file and serve a comprehensive paginated and indexed bundle containing only those matters currently considered relevant to their appeals;
 - (2) file and serve amended grounds challenging the decisions of the respondent dated 14 October 2013.
10. Five days prior to the hearing date the appellant shall file a skeleton argument cross-referencing to the bundle and where relevant **AT Libya CG** [2014] UKUT 318.
11. There shall be an Arabic interpreter with a time estimate of 2.5 hours.

Signed:

Ms M. Plimmer
Deputy Judge of the Upper Tribunal

Date:
1 October 2014