



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/10669/2015

THE IMMIGRATION ACTS

Heard at Field House, London
On the 5th May 2016

Decision & Reasons Promulgated
On 17th May 2016

Before:

DEPUTY UPPER TRIBUNAL JUDGE MCGINTY

Between:

[A V]
(No Anonymity Direction made)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Benfield (Counsel)

For the Respondent: Mr Kotas (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is the Appellant's appeal against the decision of First-tier Tribunal Judge Greasley promulgated on the 14th March 2016, in which he dismissed the Appellant's asylum appeal.
2. Permission to appeal against that decision has been granted by First-tier Tribunal Judge Ford on the 4th April 2016. When referring to the Grounds of Appeal he found that it was arguable that given the Appellant had been taking medication for major health problems and had done so for some time and given that he had changed his solicitors less than two weeks before the hearing, that First-tier Tribunal Judge Greasley had

erred in not granting an adjournment, although Judge Ford questioned as to why his solicitors did not immediately seek an adjournment when he initially instructed, rather than waiting until the hearing. Judge Ford further granted permission to argue ground 2 in that it was arguable that the Judge had failed to make clear findings on material aspects of the Appellant's claim including escape from detention or payment of a bribe, CID interest post-departure *sur place* activities and leaving with an agent.

3. The Respondent had submitted a Rule 24 Reply dated the 15th April 2016, in which it was argued that the Judge had directed himself properly and had properly considered the adjournment application and that there had been ample time for the Appellant to provide any documentation deemed relevant and that the Appellant had been given the opportunity to substantiate his claim orally and to rebut the criticisms made.
4. However, it was conceded by Mr Kotas on behalf of the Respondent that in fact there was a material error of law in the decision of First-tier Tribunal Judge Greasley in that at [42] the "Appellant produced a packet of medication indicating that he was taking Citalopram daily, but the package is dated the 17th February 2016. There is no indication the Appellant has taken such medication any earlier than two weeks prior to the appeal hearing." Mr Kotas accepted that in fact the Appellant had mentioned that he was on such medication within the screening interview and that therefore was a material error in the way the Judge dealt with the medical evidence in the case and that the Judge thereby had not given the case anxious scrutiny and was unsafe.
5. In light of this concession made on behalf of the Secretary of State and the concession made that as a result of that material error the case would need to be remitted back to the First-tier Tribunal, I do find that the decision of First-tier Tribunal Judge Greasley does contain a material error in that he has based his decision on the basis that there was no evidence that the Appellant was on Citalopram more than two weeks before the hearing, but in fact this had been mentioned on the screening interview, and that as was conceded by Mr Kotas the Judge has not given anxious scrutiny to the case. Although this was an error of fact, the circumstances of this case it did a matter material error of law, as it was not an error brought about by the appellant himself, the fact was easily verifiable by looking at the screening interview and was therefore not contentious, and the error did play a material part in the Tribunal's reasoning, particularly in respect of the decision not to adjourn.
6. In such circumstances, I do consider and agree with Mr Kotas that the decision is unsafe and that the decision of First-tier Tribunal Judge Greasley should be set aside and the decision remitted back to the First-tier Tribunal for the appeal to be heard before any First-tier Tribunal Judge other than First-tier Tribunal Judge Greasley.

Notice of Decision

The decision of First-tier Tribunal Judge Greasley does contain a material error of law, as has been conceded by the Secretary of State. The decision of First-tier Tribunal Judge Greasley is therefore set aside.

The appeal is remitted back to the First-tier Tribunal for the case to be reheard before any First-tier Tribunal Judge other than First-tier Tribunal Judge Greasley.

Signed

R McGinty
Deputy Upper Tribunal Judge McGinty

Dated 5th May 2016