



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/13328/2016

THE IMMIGRATION ACTS

Heard at Field House, London
On 24th August 2017

Decision & Reasons Promulgated
On 1st September 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGINTY

Between

MR VIJAYAKUMAR VEERAMALAI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Jegarajah (counsel)
For the Respondent: Mr Staunton (Home Office Presenting Officer)

DECISION AND REASONS

1. This is the Appellant's appeal against the decision of First-tier Tribunal Judge Oliver, promulgated on 20th February 2017 following a hearing at Hatton Cross on 4th January 2017, in which the Judge dismissed the Appellant's appeal on asylum and humanitarian protection grounds.
2. Within the Grounds of Appeal it is argued inter alia that the learned First-tier Tribunal Judge did not engage properly with the contents of the psychiatric report of

Dr Dhumad, nor the medical report of Dr Martin in respect of the scarring, when considering whether or not the Appellant would be at risk upon return to Sri Lanka.

3. Permission to appeal has been granted by First-tier Tribunal Judge Mark Davies on 9th June 2017 who found it was arguable taking into account the cursory examination the judge gave to the evidence of Dr Martin and Dr Dhumad and the briefness of the decision, that it was arguable the judge had not given anxious scrutiny to the evidence put before him.
4. Within the judgment, when making his findings Judge Oliver took account of the fact that there was said to be differences in the accounts given regarding the psychiatric condition in the initial interview evidence as opposed to the details explained to Dr Dhumad, but Judge Oliver considered that there were features suggestive of an embellishment of his account by the inclusion of commonly known features of PTSD.
5. In respect of the scarring and a report of Dr Izquierdo-Martin the judge found that the physical scars depicted in the photographs were not severe and were not found to be typical or diagnostic of deliberate infliction and therefore he gave them little weight. The point raised within the Grounds of Appeal is that Dr Martin said that the scars were either consistent or highly consistent with the torture said to have been suffered by the Appellant.
6. I bear in mind in this case that the Rule 24 reply filed by the Respondent on 25th July 2017 does not oppose the Appellant's application for permission to appeal and invites the Tribunal to determine the appeal with a fresh hearing.
7. Having heard from the legal representatives this morning, Mr Staunton on behalf of the Secretary of State concedes the appeal and agrees that the First-tier Tribunal Judge sadly has not adequately or fully considered the contents of the psychiatric report and the scarring report from Dr Izquierdo-Martin and he has not adequately or sufficiently explained the reasons for rejecting or giving little weight to that evidence.
8. In such circumstances given that the appeal has been conceded by the Respondent I do find that the decision of First-tier Tribunal Judge Oliver thereby does contain a material error of law as claimed and I therefore set aside the decision of First-tier Tribunal Judge Oliver in its entirety and I remit the case back to the First-tier Tribunal for a rehearing de novo before any First-tier Tribunal Judge other than First-tier Tribunal Judge Oliver.

Notice of decision

- 1)The decision of First-tier Tribunal Judge Oliver does contain a material error of law;
- 2)I set aside the decision of First-tier Tribunal Judge Oliver in its entirety and I remit the case back to the First-tier Tribunal for a rehearing de novo before any First-tier Tribunal Judge other than First-tier Tribunal Judge Oliver;
- 3)No anonymity direction is made, no such order having been sought before me.

Signed

Date 31st August 2017

RFMcGinty

Deputy Upper Tribunal Judge McGinty