



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05823/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 19 July 2018

Decision & Reasons Promulgated
on 26 July 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

PAYWAND [I]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms N Loughran, of Loughran & Co, Solicitors
For the Respondent: Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. Designated FtT Judge Murray dismissed the appellant's appeal by a decision promulgated on 28 December 2017. On 20 March 2018, UT Judge Rimington granted to appeal to the UT.
2. At paragraph 40 of her decision, Judge Murray said:

The issue is whether I believe [the appellant] was smuggling KDPI material ... I believe he has added this to his account to give him an asylum claim which he did not have before.

3. Unfortunately, that was a slip. The first record of the claim is the screening interview of 9 December 2015, which includes the following:
 - 4.1 Please briefly explain all of the reasons why you cannot return to your home country?

I fear the authorities. I was accused of delivering packages to political parties. I was not aware of the goods I was delivering.
4. The misconception plays a significant part in the adverse conclusion reached, such that the decision cannot safely stand.
5. The decision of the FtT is **set aside**. It remains only as a record of what was said at the hearing.
6. The nature of the case is such that it is appropriate under section 12 of the 2002 Act and Practice Statement 7.2 to remit to the FtT for an entirely fresh hearing.
7. The member(s) of the FtT chosen to consider the case are not to include Judge Murray.
8. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

17 July 2018
Upper Tribunal Judge Macleman