



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/07531/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 14 March 2018**

**Decision & Reasons  
Promulgated  
On 09 April 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DEANS**

**Between**

**S F  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Winter, Advocate, instructed by DGF Solicitors  
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against a decision by Judge of the First-tier Tribunal Handley dismissing an appeal on protection and human rights grounds.
2. The appellant claims to be a national of Eritrea. According to the appellant, he and his mother fled from Eritrea in 2002 after the appellant's father was detained for practising as a Pentecostal Christian. The appellant and his mother lived in Sudan until the appellant's mother died in 2014. The following year the appellant left Sudan and went to Libya, where he claims he was detained and mistreated. The appellant's uncle in South Africa paid to arrange

the appellant's release and for him to be taken by boat to Italy, from where he travelled to the UK.

3. The Judge of the First-Tier tribunal did not accept the appellant's evidence as credible. Having rejected the appellant's evidence on this basis, the judge then turned to give consideration to a medical report by a consultant clinical psychologist. According to this report the appellant had PTSD as a consequence of past trauma. The judge found, however, that if the appellant had PTSD there may have been other causes for this than the appellant's claim to have been detained and ill-treated.
4. Permission to appeal was granted on the basis that it was arguable that the judge had failed to take account of the appellant's cognitive difficulties identified in the psychologist's report. These cognitive difficulties were arguably relevant to the assessment of the credibility and reliability of the appellant's evidence, including the appellant's explanation of his lack of knowledge of Tigrinya. It was further arguable that the medical report had been considered as an adjunct to the judge's assessment of the appellant's credibility.
5. At the hearing before me the parties were agreed that the Judge of the First-tier Tribunal had erred in law in respect of the treatment of the medical report. The proper course was for the appeal to be remitted to the First-tier Tribunal for a hearing before a different judge with no findings preserved. I am satisfied that this is the proper course in the circumstances.

### **Conclusions**

6. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
7. The decision is set aside.
8. The appeal is remitted to the First-tier Tribunal for hearing before a different judge with no findings preserved.

### **Anonymity**

The First-tier Tribunal did not make a direction for anonymity. As the appeal is to be reheard I consider that such a direction should be made to preserve the positions of the parties until the appeal is finally decided. Unless or until a court or tribunal directs otherwise no report of these proceedings shall identify the appellant or any member of his family. This direction applies to the appellant and to the respondent. Failure to comply with this direction may lead to contempt of court proceedings.

Deputy Upper Tribunal Judge Deans  
4<sup>th</sup> April 2018