



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10220/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 29 August 2018

Decision & Reasons Promulgated  
On 13 September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

MR A A  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms F Allen, Counsel instructed by S Satha & Co Solicitors  
For the Respondent: Mr N Bramble, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Sri Lanka who was born on 6 March 1988. He is appealing against the decision of Judge of the First-tier Tribunal Graham

promulgated on 14 May 2018 to dismiss his appeal against the decision of the respondent on 29 September 2017 to refuse his application for asylum.

2. The appellant claims, in summary, that in 2006 he was arrested and subjected to torture as a result of his support for the LTTE and that in May 2014 the authorities arrested and badly treated his father because they were looking for him. The appellant also claims that he suffers from post-traumatic stress syndrome and has attempted suicide. He adduced a report from an expert psychiatrist, Dr Dhumad, which concluded that the most likely cause of the appellant's PTSD is the torture he suffered in Sri Lanka and that he currently has a moderate risk of suicide which is likely to increase in the context of removal to Sri Lanka.
3. Judge Graham dismissed the appellant's appeal. He did not find the appellant's account credible and did not accept that he had been arrested and detained in Sri Lanka in 2006. The judge stated at paragraph 39 of the decision that he did not find it plausible that the appellant would be arrested and detained given his activities were carried out during peacetime and were of a fairly low level. The judge also did not accept that the appellant is suicidal and rejected the expert's conclusion in this regard. At paragraph 31 the judge stated that:-

“There is nothing in the three years of GP notes submitted to support the appellant's claimed overdose. In fact the GP notes repeatedly refer to the appellant having ‘no thoughts of self harm or suicide’, or ‘thinking about suicide but stating that he has no plans to act on these thoughts’. In these circumstances, not only is there no medical evidence supporting the appellant's claim that he attempted suicide in 2017, but the GP notes show that the appellant has repeatedly stated he has no intention of attempting suicide.”

4. The grounds of appeal take issue both with the judge's assessment of the medical evidence and with the credibility findings. In respect of the medical evidence it is argued, inter alia, that the judge made an error of fact by finding that the GP notes do not support that the appellant would be at risk of suicide given that there are GP notes which indicate he has attempted suicide.
5. In respect of the credibility assessment the grounds make several arguments, one of which is that the conclusion that the appellant's claim to have been arrested and detained in August 2006 was not plausible is inconsistent with the situation prevailing in Sri Lanka at the time.
6. At the error of law hearing Mr Bramble, on behalf of the Secretary of State, conceded that there had been an error of law, both in respect to the credibility assessment and the analysis of the medical evidence, and submitted that the appeal should be remitted to the First Tier Tribunal to be heard afresh. Mr Bramble maintained that the judge's error in respect of assessing credibility was such that none of the factual findings could stand and there was no alternative to the matter being heard afresh.
7. Ms Allen, on behalf of the appellant, agreed with Mr Bramble and joined him in urging that the appeal be remitted to the First-tier Tribunal.

8. In light of the position taken by Mr Bramble, I find that the decision cannot stand for the reasons he has given and find that the matter should be remitted to the First-tier Tribunal to be heard afresh before a different judge.

**Notice of Decision**

9. It has been conceded by the respondent that the decision of the First-tier Tribunal contains an error of law and should be set aside and I find accordingly.
10. The appeal is remitted to the First-tier Tribunal to be heard afresh before a Judge of the First-tier Tribunal other than Judge Graham.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed



Deputy Upper Tribunal Judge Sheridan

Dated: 11 September 2018