



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/13256/2017

**THE IMMIGRATION ACTS**

**Field House  
8 November 2018**

**Decision & Reasons  
Promulgated  
15 November 2018**

**Before**

**UPPER TRIBUNAL JUDGE PITT**

**Between**

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

Appellant

**and**

**PN**

**(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Ms A Everett, Senior Home Office Presenting Officer

For the Respondent: Mr P Lewis, Counsel, instructed by York Solicitors

**DECISION AND REASONS**


1. This is an appeal against the decision dated 13 August 2018 of First-tier Tribunal Judge I Ross which allowed the appeal of PN on protection grounds.
2. For the purposes of this decision I refer to PN as the appellant and to the Secretary of State as the respondent, reflecting their positions before the First-Tier Tribunal.

3. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I continue the anonymity order made by the First-tier Tribunal. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I do so in order to avoid a likelihood of serious harm arising to the appellant from the contents of the protection claim.
4. The appellant is a national of Sri Lanka.
5. The First-Tier Tribunal found that the appellant had been extremely seriously mistreated in Sri Lanka in 2014 as he was suspected of supporting the LTTE and being active in the UK in support of Tamil independence. That part of his claim was supported by an almost contemporaneous physical medical report showing freshly incurred wounds and serious injuries “typical” of the type of mistreatment claimed by the appellant. On return to the UK after this mistreatment the appellant claimed asylum and began to be an active supporter of the TGTE. The appellant attempted suicide in 2018 after he heard his father had been arrested. A period as an in-patient in a mental health unit followed and he has been on anti-depressants thereafter.
6. Ms Everett conceded that the grounds and materials relied upon for the respondent were not capable of showing judicial bias. The respondent’s ground as argued before me was that there had been procedural unfairness where the First-Tier Tribunal Judge had found the appellant to be a vulnerable witness and restricted cross-examination on the appellant’s credibility. The grounds also maintained that the First-Tier Tribunal had acted unfairly in questioning the credibility points made in the Presenting Officer’s submissions but had not done so during the submissions of the appellant’s representative.
7. I did not find that the grounds had merit. The Presenting Officer’s note of proceedings states that he agreed, albeit reluctantly, that cross-examination should be restricted because the appellant was a vulnerable witness. There is no suggestion that the appellant should have been treated other than as a vulnerable witness given the medical evidence provided. The First-Tier Tribunal followed the Joint Presidential Guidance on Child, Vulnerable Adult and Sensitive Appellants correctly in controlling the manner of questioning; see paragraph 10.2 (iv). The First-Tier Tribunal was entitled to have formed a preliminary view of the evidence and test that out during submissions. Exploring or querying the strength of submissions is not, without more, something capable of showing procedural impropriety. The Presenting Officer’s note of hearing objects to interruptions to his submissions but does not specify how the judge’s interruptions could amount to the level of procedural unfairness. That is additionally so where it would appear that the submissions on credibility were, notwithstanding the judge’s interventions, still made.

8. It was therefore my conclusion that the grounds did not disclose procedural error and that the decision of the First-Tier Tribunal was lawful.

**Notice of Decision**

The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: 

Date: 8 November 2018

Upper Tribunal Judge Pitt