



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

Appeal Number: PA/00775/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
on 11 April 2019**

**Decision & Reasons  
Promulgated  
On 16 May 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHAERF**

**Between**

**OT  
(Anonymity Direction Made)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Saeed, solicitor of Aman Solicitors Advocates (London) Limited

For the Respondent: Mr S Kotas of the Specialist Appeals Team

**Anonymity Direction**

**Unless and until a tribunal or court directs otherwise the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify the Appellant or any family member. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings**

**ERROR OF LAW DECISION AND REASONS**

## **The Appellant**

1. The Appellant is a Palestinian born in 1998 in Lebanon in a refugee camp where his mother and siblings remain. His father is deceased. He states his membership of the Palestine Liberation Movement (Fatah) was terminated because of his opposition in the camp to Ansrullah-Hezbollah who pursued him and raided his home.
2. The Appellant states that on 3 May 2017 he left Lebanon on his own passport and travel to Turkey, thence he went to Bolivia and then to an unknown state in Africa, arriving in the United Kingdom by air on 5 July 2017 when he sought subsidiary protection.

## **The SSHD's decision**

3. On 2 January 2018 the SSHD refused the claim for subsidiary protection. The SSHD accepted the Appellant's membership of Fatah but did not believe his account of difficulties with Hezbollah or that he would be at risk on return to his home.

## **Proceedings in the First-tier Tribunal**

4. On 16 January 2018 the Appellant lodged notice of appeal. The grounds assert the Appellant has told the truth about what happened in Lebanon and referred to two original letters from Fatah which he had supplied to the SSHD and which corroborated his account. By a decision promulgated on 16 January 2019 Judge of the First-tier Tribunal Dineen made adverse credibility findings against the Appellant and dismissed the appeal on all grounds. On 11 February 2019 Judge of the First-tier Tribunal Saffer granted permission to appeal because it was arguable Judge Dineen had erred in law by making adverse credibility findings without considering the background evidence about conditions in refugee camps in Lebanon and in not addressing the two letters from Fatah.

## **The Upper Tribunal Proceedings**

### **Submissions for the Appellant**

5. The Appellant did not attend the hearing. Mr Saeed referred to paragraph 4 of the grounds for appeal which identified the need for the First-tier Tribunal to consider country background information in asylum cases. Inherent probability while possibly helpful in the assessment of domestic cases could be dangerous and even wholly inappropriate in some asylum cases where the evidence will be reference will to societies with customs and circumstances very different from those experienced by the fact-finders. Mr Saeed referred to pages 11, 12, 15 and 72 of the Appellant's bundle and pages 49 and 50 of his supplemental bundle to show that it had been necessary for the Judge to take into account the background evidence before making his findings of implausibility which in the circumstances did not bear any scrutiny.

6. The two letters from Fatah were highly relevant and the Judge had not taken any account of them. One of them specifically referred to the escape of the Appellant from his home when Ansarullah-Hezbollah attempted to arrest him. Paragraph 39 of the SSHD's reasons for refusal had rejected these two letters simply on the basis that only copies had been submitted. This was incorrect because the originals had been submitted as identified in his firm's letter of 19 December 2017 in the SSHD's bundle which had been sent after the SSHD had interviewed the Appellant and some two weeks before the SSHD's decision under appeal. These letters should have been considered and if rejected, reasons given. Similarly, the Judge should have considered them. The First-tier Tribunal's decision contained material errors of law and should be set aside.

### **Submissions for the SSHD**

7. Mr Kotas submitted the background evidence did not assist the Appellant on the points which the Judge had taken against him. The appeal had been dismissed because the Appellant's account of his escape from his home when raided by Ansarullah-Hezbollah was simply not credible and because his claim to have continued his activities against them after being warned while still in his home camp was not accepted by the Judge.
8. The Appellant's home camp was a small one as identified at paragraph 40 of the SSHD's reasons for refusal and the challenge based on the Judge's claimed failure to take into account background evidence amounted to no more than a disagreement with his conclusion.
9. It was accepted the Judge had not referred to the two letters from Fatah. First, they would not have removed the Judge's concern about the Appellant's account of his escape and second, given the adverse credibility findings made by the Judge, the learning in *Tanveer Ahmed* \*[2002] UKIAT 00439 was applicable with the consequence that little weight could be attached to them.
10. The grounds disclose no material error of law and the decision should stand.

### **Response for the Appellant**

11. Mr Saeed pointed out that one of the letters confirmed the manner of escape claimed by the Appellant and needed to have been considered with the other evidence and a holistic approach taken to the assessment of the Appellant's account.

### **Conclusion**

12. I noted the Appellant was not present so that it would not have been practicable in any event if there were a material error of law in the decision of the First-tier Tribunal to proceed to a substantive re-hearing. I

therefore reserved my decision on the error of law issue which now follows.

13. I find the letters from Fatah are relevant to the appeal. Originals were supplied before the SSHD issued its decision. The reasons for rejecting these letters were inaccurate, in that originals had been produced to the SSHD. The grounds for appeal expressly referred to the submission of the originals of the two letters and it appears that subsequent to their submission prior to the SSHD's decision neither the SSHD nor the First-tier Tribunal have considered them. One of the two letters made specific mention of the Appellant's escape from arrest by Ansarullah-Hezbollah. It is not possible to conclude that had the Judge considered the extensive background evidence about conditions and political factions in the Lebanese refugee camps and the two original Fatah letters he would inevitably have come to the same conclusion. Consequently, I conclude the decision of the First-tier Tribunal contains a material error of law and should be set aside in its entirety, with no findings of fact preserved.
14. Having regard to the extent of the fact-finding exercise likely to be required at the re-hearing of this appeal, I consider it appropriate to remit it to the First-tier Tribunal.

### **Anonymity**

15. An anonymity direction was made by the First-tier Tribunal. There was no request for the direction to be lifted and in the circumstances it is continued until the next hearing when the parties should address the Tribunal whether it should be discontinued.

### **SUMMARY OF DECISION**

**The decision of the First-tier Tribunal contains an error of law and is set aside.**

**The substantive appeal is remitted to the First-tier Tribunal for hearing afresh.**

**Anonymity direction continued.**

Signed/Official Crest

Date 14. v. 2019

Designated Judge Shaerf  
A Deputy Judge of the Upper Tribunal