



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

Appeal Number: PA/04567/2018
PA/04578/2018, PA/04581/2018
& PA/04584/2018

THE IMMIGRATION ACTS

**Heard at Glasgow
On 28th March 2019**

**Decision and Reasons
Promulgated
On 08th April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE DEANS

Between

MT

NM

A

NT

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr M Templeton, Quinn, Martin & Langan, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. These appeals are brought against a decision by Judge of the First-tier Tribunal David Clapham dismissing appeals on protection and human rights grounds.

2. The appellants are nationals of Indonesia. The first appellant is the father of the second and third appellants. The fourth appellant is related to the first appellant by marriage. Her sister's husband is the first appellant's brother. According to the appellants, the first appellant borrowed money for his business and was unable to repay it. The appellants fear violence at the hands of these creditors. The appellants also fear persecution on the grounds of religion, having abandoned their Muslim faith and become atheists.
3. The Judge of the First-tier Tribunal made adverse credibility findings. The judge did not accept that the appellants are atheists. The judge did not accept their evidence of having been threatened and assaulted by creditors.
4. In summary the grounds of the application for permission to appeal contend that the Judge of the First-tier Tribunal did not give adequate reasons for the negative credibility findings and disregarded material evidence set out in the appellants' witness statements. It is also contended that the judge disregarded documentary evidence, including a police report and medical evidence. Permission to appeal was given on the basis that the judge had arguably erred by overlooking documentary evidence, particularly the police report and medical evidence.
5. At the hearing before me Mr Govan did not seek to defend the decision of the First-tier Tribunal in its entirety. He pointed out that although the judge said it was speculative to assume that attacks on the appellants were instigated by the creditors, the judge disregarded the evidence of the appellants that the attackers said they had been sent by the creditors. There was in addition a lack of consideration of the documentary evidence. In relation to the appellants' alleged atheism, the judge based his negative finding on the appellants having each given their religion at their screening interviews as Islam without engaging fully with their evidence. Finally, the judge neglected to address an Article 8 claim advanced specifically for the third appellant.
6. Mr Templeton had nothing to add on the appellants' behalf.
7. Having considered the decision of the First-tier Tribunal and related documents, I am satisfied that the Judge of the First-tier Tribunal erred in law in the manner described in the grant of permission to appeal and as outlined in Mr Govan's submission. The decision is set aside.
8. In view of the extent of fact finding required the appeal should be remitted to the First-tier Tribunal in accordance with paragraph 7.2(b) of the Practice Statement. The appeals will therefore be

remitted to the First-tier Tribunal to be reheard before a differently constituted tribunal with no findings preserved,

Conclusions

9. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
10. The decision is set aside.
11. The appeals are remitted to the First-tier Tribunal to be reheard before a differently constituted tribunal with no findings preserved.

Anonymity

The First-tier Tribunal did not make a direction for anonymity. In order to preserve the positions of the parties until the appeal is finally decided I make such a direction in the following terms. Unless or until a court or tribunal directs otherwise no report of these proceedings shall directly or indirectly identify the appellants or any members of their family. This direction applies to the appellants and the respondent. Failure to comply with this direction may give rise to contempt of court proceedings.

M E Deans
dated 4th April 2019
Deputy Upper Tribunal Judge