



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001909
First-tier Tribunal Nos:
PA/51339/2022
IA/03719/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 24 July 2023

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

J L
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Jesurum, Counsel, instructed by KBP Solicitors
For the Respondent: Ms H Gilmour, Senior Home Office Presenting Officer

Heard at Field House on 5 July 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

I make this order because the Appellant seeks international protection and is entitled to anonymity.

DECISION AND REASONS

(extempore)

1. This is an appeal by a citizen of Albania against a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State refusing him international protection.
2. I do not think it necessary for me to say very much because there has been an entirely and responsible concession by Ms Gilmour, Senior Home Office Presenting Officer, after she had heard Mr Jesurum's submissions.
3. The point of most concern to me is identified by the First-tier Tribunal Judge who granted permission; it is that the way that the decision is written leads me to the conclusion that the judge's decision making on credibility was fundamentally wrong. The problem is that this is a case where there is apparently credible, in fact I go further to say apparently reputable evidence from a psychologist, a Dr Kemmis, showing that the appellant has a presentation indicating some kind of psychological damage. This could be an explanation for inconsistencies and difficulties in his account and this possibility should have been factored into the decision-making process. What appears to have happened here (it may just be the way it is written but I can only go on by what is before me) is rather than deciding the case in the round the judge decided against the appellant and then wrote off the psychologist's report because it did not fit in with the findings that the judge had already reached. This is contrary to the guidance given in the well-known case of **Mibanga v Secretary of State for the Home Department [2005] EWCA Civ 367** and for that reason alone I have to set aside the decision of the First-tier Tribunal.
4. It follows from this that the decision is fundamentally unsound and there has to be a rehearing and it should be in the First-tier Tribunal.
5. There were other points taken and I make brief mention of them because this is a rather short decision. There is absolutely nothing wrong with decisions being short and there are very good reasons why decisions should be short but that only applies when they are long enough. What I have not been able to see here are illustrations for conclusions that are reached. It is essential that judges not only say what they have decided (and that is important and sometimes is overlooked) but they must give a reason, it does not mean every reason has to be set out in excruciating detail, that is rarely helpful, but there has to be enough and that has not happened here but in the circumstances and in the light of what Ms Gilmour has said I think it would achieve nothing useful for me to say more.

Notice of Decision

6. The First-tier Tribunal erred in law. I set aside its decision and I direct that the case be heard again in the First-tier Tribunal.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

20 July 2023