



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/10295/2015**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Manchester

Decision & Reasons

**On 18th September 2017
Given ex tempore**

**Promulgated
On 25th September 2017**

Before

UPPER TRIBUNAL JUDGE CHALKLEY

Between

**MOIN B MABROK
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Greer, Solicitor, Broudie Jackson Canter
For the Respondent: Mr Diwnycz, Home Office Presenting Officer

REASONS FOR FINDING AN ERROR OF LAW

1. The appellant is a citizen of Libya born on 26th June 1981.
2. He first applied to enter the United Kingdom as a student on 5th July 2005, and that application was refused, but a second application on 22nd July, 2005, was successful and he was granted leave to enter as a student on a visa issued on 24th Jul, 2005 valid to 24th January, 2006. He was granted further periods of leave to remain in the United Kingdom until 25th November 2014, when his visa expired.

3. On 30th December 2014, the appellant claimed asylum and that application was considered by the respondent and on 19th June 2015, was refused.
4. The appellant appealed and his appeal was heard by First-tier Tribunal Judge M Sharkett sitting at Manchester on 7th November 2016. The judge dismissed the appellant's asylum appeal, dismissed his humanitarian protection appeal and dismissed his human rights appeal. However, in doing so, the judge refers on no less than three occasions to the wrong standard of proof. The judge correctly sets out the standard of proof at paragraph 51 of the determination, but then at paragraphs 76, 79 and 80 she makes reference to "on the balance of probabilities".
5. I indicated to the representatives my preliminary view was that the determination could not stand. I emphasised that I had not reached any conclusions and was more than happy to be persuaded otherwise. Mr Diwnycz indicated to me that he agreed that the determination could not stand and that it should be remitted to the hearing by the First-tier Tribunal. There is a suggestion that the judge appears to have required corroboration at paragraph 67, but what she says at paragraph 67 is factually correct and is not an example of the judge calling for corroboration.
6. Because of the fundamental errors in the determination acknowledged by the Home Office Presenting Officer, I have no alternative but to set it aside and remit it for hearing afresh by the First-tier Tribunal. An Arabic interpreter will be required.

Richard Chalkley
A Judge of the Upper Tribunal