



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04131/2018

THE IMMIGRATION ACTS

Heard at Field House
On 5 September 2018

Decision & Reasons Promulgated
On 11 September 2018

Before

UPPER TRIBUNAL JUDGE MCWILLIAM

Between

SA
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hodson, Counsel instructed by Elder Rahimi Solicitors
For the Respondent: Ms A Fijiwala, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Turkey. His date of birth is 1 January 1986.
2. The Appellant's appeal against the decision of the Secretary of State on 13 March 2018 to refuse his claim for asylum was dismissed by First-tier Tribunal Judge O'Garro in a decision promulgated on 11 June 2018, following a hearing on 30 April 2018. Permission to appeal against the decision of Judge O'Garro was granted to the Appellant by Designated First -tier Tribunal Judge Holmes on 6 July 2018.

2. The Respondent indicated in a Rule 24 response of 30 August 2018 that he does not oppose the application and invited the UT to remit the appeal to the FtT under Procedure Rule 39 without the need for a scheduled hearing on 5 September 2018.
3. Upper Tribunal Judge Kekic in a decision issued on 3 September 2018 ordered that the UT will hear submissions from the parties at the forthcoming hearing as to the materiality of the error and as to the appropriate course of action to be taken.
4. At the hearing before me, I asked Ms Fijiwala to address me in respect of materiality. She identified the errors made by the judge. She agreed that the judge made credibility findings on the background evidence and failed to consider the subjective evidence, did not make findings on material matters and the findings made are inadequately reasoned. She stated that the errors are material for the reasons identified in the grounds for permission. I agree with the parties that the First-tier Tribunal materially erred for the reasons identified in the grounds. I set aside the decision of the judge to dismiss the appeal. None of the findings of the judge are sustainable in the light of the errors.
5. Having heard from the parties, I agreed that the appropriate course of action would be to remit to the FtT for a fresh hearing. With reference to para 7.3 of the Practice Statement of 25 September 2012, I conclude that the nature and extent of the judicial fact finding with is necessary for the decision to be remade is such that it is appropriate to remit to the First-tier Tribunal.

Signed *Joanna McWilliam*

Date 5 September 2018

Upper Tribunal Judge McWilliam