



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

**Appeal Number: PA/11852/2017**

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
On 18 October 2018**

**Decision & Reasons  
Promulgated  
On 22 October 2018**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**HIEV [D]**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Mr C McGinley, of Gray & Co, Solicitors

For the Respondent: Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This decision is to be read with:
  - (i) The respondent's decision dated 9 November 2017, refusing the appellant's claim.
  - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) The decision of FtT Judge Handley, promulgated on 17 January 2018.
  - (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal filed on 30 January 2018.

- (v) The grant of permission by FtT Judge Alis, dated 18 February 2018.
2. Mr McGinley submitted that the FtT's decisions errs in these respects:
- (i) The judge incorrectly founded at paragraph 45 on the appellant not mentioning at interview that he sustained injuries to his body. At Q/A 45 he said, "*I [was] injured all over my body and my arms*". This led the judge further astray in finding it odd that the appellant might have been hospitalised for 3 days, in absence of serious injury.
  - (ii) The judge recorded at paragraph 20 that the appellant received two summonses in 2013, to which the respondent attached some weight (paragraph 46 of the refusal letter). The summonses were tendered at the interview, but not then accepted by the respondent, in absence of translations, and in keeping with practice. The summonses and translations were provided shortly thereafter and are copied in the respondent's bundle. The judge failed to make any findings about the summonses.
3. Mr Matthews said that paragraph 43 of the FtT's decision might be read as implying a finding about the summonses, but it was unclear; and even if intended as a finding, it risked the criticism of reaching a conclusion in isolation from the whole evidence. He accepted that the refusal letter might have been clearer on the amount of weight given to the summonses. He said that the FtT might have intended to find (and would have been entitled to find) that events took place in 2013 much as the appellant related, but gave rise to no ongoing risk; that there were sound reasons to reject claimed events in 2017; and so, the appeal failed. However, he accepted there was error about the appellant's account of his injuries, as well as in absence of conclusions about the summonses. Having considered the grounds further in light of the appellant's submissions, he conceded that the decision could not safely stand.
4. The outcome was agreed.
5. The decision of the FtT is **set aside**. It stands only as a record of what was said at the hearing. The nature of the case is such that it is appropriate under section 12 of the 2002 Act and Practice Statement 7.2 to remit to the FtT for an entirely fresh hearing. The member(s) of the FtT chosen to consider the case are not to include Judge Handley.
6. No anonymity direction has been requested or made.



18 October 2018  
Upper Tribunal Judge Macleman