



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

Appeal Number: PA/04683/2018

THE IMMIGRATION ACTS

Heard at Birmingham

On 22 March 2019

**Decision & Reasons
Promulgated
On 27 March 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**AMD
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Lams

For the Respondent: Mr Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 11 March 1994 and is a male citizen of Sri Lanka. He arrived in the United Kingdom in January 2017 and claimed asylum. His claim was refused by decision dated 22 March 2018. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 8 October 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are three grounds of appeal. First, the appellant challenges the judge's decision for failing to make proper findings in respect of the report of a consultant psychiatrist, Dr Hajioff. The psychiatrist had examined the appellant in August 2018 and had diagnosed depression and chronic post-traumatic stress disorder (PTSD). The judge recorded [34] that the psychiatrist found that there was a risk of suicide and that there was evidence that the appellant was admitted to hospital on 29 June 2018 having taken an overdose of amitriptyline and paracetamol. It is unclear whether the judge accepted the diagnoses or whether he accepted claimed causation of PTSD. Secondly, the judge failed to give proper consideration to the appellant as a vulnerable witness (see Joint Presidential Guidance Note No. 2 (2010)). Thirdly, the appellant asserts that the judge failed to take account of relevant evidence. The appellant claims to be a member of the TGTE and produced a membership card for the period 2018 to 2023. The judge failed to give reasons for rejecting the appellant's claim that his *sur place* activities including attendance at demonstrations would expose him to risk on return to Sri Lanka. Judge and failed also to take proper account of the significance of the TGTE as a banned diaspora organisation and to apply the relevant country guidance for Sri Lanka (*Gj and others* (post-civil war: returnees) Sri Lanka CG [2013] UKUT 319 (IAC)).
3. At the initial hearing at Birmingham on 22 March 2019, Mr Mills, who appeared for the Secretary of State, told me that the respondent agreed that the judge had erred in law in his treatment of the medical evidence and that the appeal should be heard de novo. I agree. I direct that none of the findings of fact should stand. In consequence, there will need to be a fresh fact-finding exercise which is better conducted in the First-tier Tribunal to which the appeal is returned for that Tribunal to remake the decision.

Notice of Decision

4. The decision of the First-tier Tribunal which was promulgated on 8 October 2019 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal (not Judge Broe; Tamil interpreter) to remake the decision.

Signed

Date 22 March 2019

Upper Tribunal Judge Lane

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 22 March 2019

Upper Tribunal Judge Lane