



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-001948

First-tier Tribunal No: HU/54917/2023  
LP/03158/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 27 August 2024**

**Before**

**UPPER TRIBUNAL JUDGE STEPHEN SMITH  
UPPER TRIBUNAL JUDGE O'BRIEN**

**Between**

**MH (PALESTINIAN TERRITORIES)  
(ANONYMITY ORDER IN FORCE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant:

Ms G Capel of Counsel

For the Respondent:

Mr Terrell, Senior Home Office Presenting Officer

**Heard at Field House on 25 July 2024**

**DECISION AND REASONS**

1. The appellant appeals against the decision of First-tier tribunal Judge Chana ("the judge") who, in a decision and reasons promulgated on 11 March 2024, dismissed the appellant's appeal against the respondent's decision to refuse his protection and human rights claim.
2. Having been refused permission to appeal by First-tier Tribunal Judge Lester, the appellant renewed his application to the Upper Tribunal, relying on 5 grounds, namely that the judge:
  - a. Failed to consider or engage with country expert evidence and/or failed to give adequate reasons for findings apparently inconsistent with the expert's opinion;
  - b. Misunderstood or mis-stated the appellant's evidence;

- c. Failed to consider or give reasons for rejecting documentary evidence;
  - d. Failed to take into account of or engage with relevant evidence contained in the appellant's fresh claim and/or reached irrational conclusions on material matters; and
  - e. Failed to consider the appellant's claim with anxious scrutiny.
3. On 4 June 2024, Upper Tribunal Judge Norton-Taylor granted the appellant permission to appeal on all grounds, noting in particular that the judge appeared not to have engaged with the expert evidence, may well have misunderstood aspects of the appellant's claim and had not dealt with letters relied on by the appellant which were said to be from the Palestine Liberation Organisation.
4. Judge Norton-Taylor invited the respondent to give careful consideration to whether she would contest the appeal and stressed that a rule 24 response must be provided in accordance with the standard directions. A rule 24 response was indeed submitted which appeared to concede the appeal, albeit in ambiguous terms. Helpfully, Mr Terrell confirmed that the respondent did not challenge any of the grounds.
5. That was an appropriate concession. We will briefly summarise why we have concluded that it was properly made.
6. We agree that the judge did indeed fail to take into account the expert report of Dr Hafidh when making material adverse credibility findings. Whilst failing to make express reference to the expert's report would not in itself have led us to find a material error of law, it is impossible to reconcile the judge's findings identified in paragraphs 10-15 of Ms Capel's skeleton argument with her having had regard to the expert's relevant opinion. To the extent that the judge might have taken into account Dr Hafidh's report when reaching those conclusions, she failed to give any (or any adequate) reasons why she made those adverse findings notwithstanding. In either event this was a material error of law.
7. It is clear from [7] that the judge was aware of how she should assess the reliability of documents relied upon by the appellant and at [8] records his reliance on three letters from the PLO. These were pieces of potentially relevant documentary evidence whose weight needed to be assessed; however, at no point in the judge's findings of fact does she expressly consider the relevance of these documents let alone make findings on their reliability. This was a material error of law.
8. We also find that the judge misunderstood or mis-stated the appellant's evidence on matters she treated as material (or alternatively failed to give reasons for rejecting that evidence) as identified in paragraph 17 of Ms Capel's skeleton argument, and thereby erred materially in law.
9. The judge's finding at [34] that the appellant had 'absconded' from his publicly-funded accommodation and 'disappeared', was made in the face of clear evidence to the contrary from the appellant and the respondent to which the judge made no reference in her reasoning. Of course, the judge was not bound to accept that evidence. But it was necessary to make findings upon it, given the impact of that part of the appellant's evidence on the judge's overall credibility

assessment. We therefore consider the judge's findings on this issue to be insufficient.

10. All in all, we were persuaded that the decision of the judge involved the making of an error of law. The parties agreed, as did we, that the extent of fact-finding required on rehearing necessitated that we remit the appeal to the First-tier Tribunal.

### **Anonymity**

11. When granting permission to appeal, Judge Norton Taylor made an order for the appellant's anonymity. We maintain that order. The appellant has made a protection claim which is yet to be finally determined. In light of the issues raised by these proceedings, it is appropriate for the order to be maintained.

### **Notice of Decision**

1. The appeal is allowed.
2. The judge's decision involved the making of an error of law and is set aside with no findings of fact preserved.
3. The appeal is remitted to the First-tier Tribunal to be heard afresh by a different judge.

**Sean O'Brien**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**8 August 2024**