



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

Appeal Number: AA/05669/2015
AA/05956/2015
AA/05960/2015
AA/05964/2015

THE IMMIGRATION ACTS

Heard at Manchester

On 7 March 2016

**Decision & Reasons
Promulgated
On 16 March 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

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(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Ms Johnston, Senior Presenting Officer
For the Respondent: Mr Hussain (Solicitor) Lei Dat and Baig Solicitors

DECISION AND REASONS

1. This matter comes before me pursuant to permission having been granted by First-tier Tribunal Judge Grant-Hutchinson dated 28 July 2015. The appeal relates to a decision by First-tier Tribunal Judge Hindson promulgated on 13 July 2015. The Judge at the First-tier Tribunal had allowed the appeal on asylum and human rights grounds. The Secretary of State had sought permission to appeal. To ease following these grounds I shall continue to refer to the Secretary of State as the Respondent and to the claimants as the Appellants.
2. The Secretary of State's grounds of appeal can be summarised as follows:
 - (1) The Judge failed to give adequate reasons for findings on material matters. The findings are expressed as conclusions only, unsupported by proper reasoning.
 - (2) Failure to follow Country Guidance on material matters. Even at its highest if the Judge had followed the Country Guidance case of **AT and others (Article 15c: risk categories) Libya CG [2014] UKUT 318** the facts found would not appear to equate to a risk on return.
3. At the hearing before me Ms Johnston said that the decision ought to have been based on the Reasons for Refusal Letter. The Judge had failed to make clear reasoned findings. The decision was not safe on reasons points. In relation to Country Guidance issues a cousin in the army does not meet a risk category. The so called findings at paragraph 27 are statements not reasons. It was submitted I ought to allow the appeal.
4. Mr Hussain in his submissions said that he relied on the Rule 24 Reply. There was no error. There were proper reasons. The Judge had found the Appellant to be plausible. The issue of the false passport had been noted at paragraph 23. He confirmed he had family in Libya. The real case was that the Appellant had his own case and had helped Gaddafi's fighters. Therefore it puts him at risk. I asked Mr Hussain to deal with the points raised against him. For example, paragraph 28 to 42 of the Respondent's Reasons for Refusal Letter set out in some detail that the claimed assistance to soldiers by cooking for them was not made out and the Appellant's own photographs showed that to be so. Mr Hussain said that paragraph 27 of the Judge's decision dealt with this. Mr Hussain said that the determination was brief but the Judge had dealt with all of the issues. I note that Paragraph 27 (iii) of the Judge's decision says no more than, "The appellant allowed the army to use his property to store

food and then organise the cooking of that food in order to feed Gaddafi's troops".

5. Ms Johnston was invited to reply but declined that offer.
6. In my judgment there is a material error of law. The Judge's decision has plainly failed to deal adequately with the various matters raised in the Reasons for Refusal Letter. The sub-heading of "Findings of Fact" in the Judge's decision are not findings of fact at all. I agree with Ms Johnston they are statements. Mr Hussain was correct to refer to the Judge's decision as being "brief". Although brevity is to be commended in some situations, in this instance the difficulty which has arisen is that there is inadequate reasoning. The Judge said he found some of the inconsistencies to be minor in nature at paragraph 22 of his decision. The difficulty is that the Judge has not dealt with the major inconsistencies and issues raised in the Respondent's Reasons for Refusal Letter.
7. In my judgment there is inadequate reasoning in the Judge's decision. Thereby there is a material error of law.
8. Accordingly, I allow the Secretary of State's appeal. The matter shall be reheard at the First-tier Tribunal. None of the findings of fact shall remain.

Notice of Decision

The decision of the First tier Tribunal Judge contains a material error of law. I set it aside. The appeals of the Appellants are remitted to the First-tier Tribunal for rehearing.

An anonymity direction is made.

Signed

Date: 7 March 2016

Deputy Upper Tribunal Judge Mahmood