



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA000062016

THE IMMIGRATION ACTS

Heard at Glasgow
on 19 May 2017

Determination issued
on 22 May 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

[H A]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms J Todd, of Latta & Co, Solicitors
For the Respondent: Mrs O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a determination by First-tier Tribunal Judge Chana, promulgated on 22 November 2016.
2. The grounds make several complaints. The more significant ones are summarised in the grant of permission as (1) not taking account of a medical report, going to memory, when assessing credibility; (2) no account taken of evidence about conditions in Greece, Italy and France, as to not claiming there; (3) no consideration of conclusions in a medical report about scarring; and (4) absence of any consideration of a linguistic report obtained by appellant.
3. Although not specifically attacked in the grounds, ¶44 of the decision should be noted, "Given that I do not find the appellant credible on so many issues, I accept the report of the [respondent's] language analyst ... I therefore find that the appellant is an Egyptian not a Syrian national". That is, at least, an unfortunate error of phrasing.

That report, like the rest of the evidence, was for assessment on its merits as well as in context.

4. As an incidental further matter, it was not for the judge to decide what nationality the appellant has, but only whether he established to the necessary standard the case he advanced.
5. The Presenting Officer conceded error of law, such as to require re-hearing.
6. That concession was correctly and fairly made. While each of the grounds might not have been found individually to require a setting aside, there is no doubt of their cumulative effect.
7. The decision of the FtT is **set aside**. None of its findings are to stand, other than as a record of what was said at the hearing. The nature of the case is such that it is appropriate in terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to **remit the case to the FtT** for an entirely fresh hearing. The member(s) of the FtT chosen to consider the case are not to include Judge Chana.
8. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

19 May 2017
Upper Tribunal Judge Macleman