



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA045612016

THE IMMIGRATION ACTS

Heard at Glasgow
on 3 May 2017

Determination issued
on 5 May 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

PAN QUNMING

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mrs F Bahrami, Advocate, instructed by Katani & Co, Solicitors
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. First-tier Tribunal Judge Lea dismissed the appellant's appeal on all available grounds.
2. The appellant sought permission to appeal in terms of an application set out in 12 paragraphs.
3. ¶6 and 7 of the application criticise ¶26 of the decision, where the judge said, "*Given that I have not accepted that the appellant was in China at this time, I place little reliance on this document*" (a medical certificate). The argument is that the judge should have considered the certificate when deciding whether the appellant had been in China in 2011, and used circular reasoning to reach an irrational decision.

4. UT Judge Perkins granted permission on each ground, but with particular reference to the foregoing. He added, "*The use of the word 'convincing' at ¶25 does not improve the quality of the decision.*"
5. Mr Matthews conceded that the judge had "*put the cart before the horse*". He did not concede that the rest of the grounds were necessarily well founded, but he accepted that the error disclosed was so inextricably linked to the overall credibility finding that the decision could not stand.
6. Representatives agreed that the outcome should be as follows.
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 on that occasion. 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.
8. The member(s) of the FtT chosen to consider the case are not to include Judge Lea.
9. 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'.

3 May 2017
Upper Tribunal Judge Macleman