



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/08222/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 15 January 2018

**Decision & Reasons
Promulgated**

On 19 February 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

SHR

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms F Shaw, instructed by Fisher Jones Greenwood
(Newcomen Way)

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is a challenge to the decision of Judge O'Malley, who in a decision promulgated on 15 March 2017 dismissed the appellant's appeal against the respondent's decision of 28 July 2016 refusing his claim for asylum and humanitarian protection.
2. I need say relatively little about this since it is common ground that there is a material error of law in the judge's decision and also the proposed disposition is a matter of agreement. The difficulty with the decision, which, as Mr Clarke says, is in many ways a careful decision, relates to the evaluation of the expert evidence at paragraph 48 concerning the position

and likelihood of action of the appellant's stepmother's brothers. The judge considered this rather late in the day, having looked at matters otherwise and come to adverse credibility findings and then at paragraph 49 said:

"In view of my conclusions about the damage to the credibility of this appellant arising from his actions, and in view of my findings about his inconsistencies in the other parts of his account, I am not prepared to accept that his stepmother's brothers were working for Ettela'at",

and it is necessary of course for credibility to be assessed in the round and the difficulty here is that that has not been done in a sense, that was an add-on to the earlier adverse credibility findings and it is of course relevant to risk.

3. So the decision is materially flawed and it will have to go back for a full rehearing before a different judge at Taylor House.

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 15 February 2018

Upper Tribunal Judge Allen