



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

Appeal Number: AA/04818/2014

THE IMMIGRATION ACTS

**Heard at Birmingham Employment
Centre
On 10 November 2015**

**Decision and Reasons
Promulgated
On 27 November 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

**U Z
(ANONYMITY ORDER CONTINUED)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E Rutherford, instructed by Cartwright King Solicitors

For the Respondent: Ms R Pettersen, Senior Home Office Presenting Officer

ORDER FOR REMITTAL

Preliminary

The First-tier Tribunal made an anonymity direction in relation to the appellants because of the nature of the case. I consider it appropriate to make a similar order in the Upper Tribunal under Procedural Rule 14(1) to prohibit the disclosure or publication of any matter likely to lead members of the public to identify the appellant. To give effect to this order the

appellant is to be referred to by the initials above.

1. At the end of my decision of 25 August 2015, having found that there was an error on a point of law in the decision and reasons statement of First-tier Tribunal Judge Parkes, I indicated that I would need to hear from the parties to decide how to dispose of the appeal in the Upper Tribunal. As a result a for-mention hearing was arranged on 10 November 2015.
2. At the resumed hearing, Ms Pettersen confirmed that the Home Office was not in a position to withdraw the decision appealed against because: (1) the appellant was appealing against sentence and the Home Office wished to know the outcome of that appeal before deciding what further action might be taken against the appellant, and (2) given the length of sentence it was too early to invoke the automatic deportation provisions. As a result Ms Pettersen and Ms Rutherford agreed that the appropriate course was to remit the appeal to the First-tier Tribunal.
3. The representatives agreed with the following directions.
 - a. The remitted hearing can be before any First-tier Tribunal judge other than Judge Parkes.
 - b. The findings made by Judge Parkes relating to international protection are preserved.
 - c. The remitted appeal is limited to issues relating to the appellant's private and family life rights.
 - d. The appellant and his wife will give evidence.
 - e. As there is no deportation decision, the First-tier Tribunal will not consider part 13 of the immigration rules relating to deportation (paragraphs 398 ff in particular).
 - f. Given the facts in this appeal, the First-tier Tribunal will have to consider article 8 ECHR directly; if it finds that article 8(1) is engaged, then it will have regard to sections 117B and 117C of the 2002 Act.
 - g. In respect of section 117C, although the appellant is appealing against sentence, it is accepted that the sentence will not be reduced below four years and the First-tier Tribunal can proceed on that agreement even if there has been no final outcome regarding the appeal against sentence.

Order

The appeal is remitted to the First-tier Tribunal for a fresh hearing as per the directions given above.

Signed

Date

Judge McCarthy
Deputy Judge of the Upper Tribunal