



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

Appeal Number: AA/08264/2014

THE IMMIGRATION ACTS

**Heard at: Field House
On: 11th February 2015**

**Decision Promulgated
On 2nd March 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

**Wakel Ahmadzai
(no anonymity direction made)**

Appellant

And

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Mascord, Lawrence Lupin Solicitors

For the Respondent: Ms Everett, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Afghanistan date of birth 1st January 1993. He has permission¹ to appeal against the decision of the First-tier Tribunal (Judge Fisher)² to dismiss his appeal against the Respondent's decision to refuse him leave to enter the United Kingdom³.

¹ Granted by First-tier Tribunal Chambers on the 8th December 2014

² Determination dated 12th November 2014

³ Immigration decision dated 2nd October 2014

2. The appeal was dismissed because the First-tier Tribunal did not have before it any reasons why the decision of the Respondent was challenged. Judge Fisher notes that the Notice of Appeal form lodged on the 16th October 2014 refers to “attached grounds’ but no grounds were attached to it. On the 20th October 2014 the Tribunal directed the Appellant’s representatives to lodge specific grounds with a warning that failure to do so would result in the matter being dismissed without a hearing under the provisions of the 2005 Procedure Rules.
3. The matter came before Judge Fisher on the 11th November 2014 and on that date no reasoned grounds were in the file. He accordingly dismissed the appeal.
4. The grounds of appeal are that in fact grounds of appeal specific to the Appellant were lodged twice; first on the 16th October 2014 by way of fax and then on the 22nd October 2014 by post. In respect of the first set, Lawrence Lupin Solicitors use software called Faxmaker which records not only the transmission time and record of delivery, but the content of the material sent. That has been produced by PDF attachment. The successfully sent fax consisted of 29 pages, page 28 of which is the grounds of appeal that specifically relate to this Appellant. The grounds were then sent by post on the 22nd October 2014, and the Appellant now produces a ‘recorded delivery slip’ showing that they were received at the Tribunal on the 27th October 2014 at 8.03am.
5. I find that the First-tier Tribunal erred in its finding that no reasoned grounds of appeal had been lodged. I make no criticism of Judge Fisher, since it would appear by administrative error that the grounds were not linked with the file.
6. In the circumstances I direct that the matter be remitted to the First-tier Tribunal where the Appellant can have his asylum appeal listed, heard and determined following an oral hearing.

Decisions

7. The determination of the First-tier Tribunal contains an error of law and it is set aside.
8. The appeal is to be re-made in the First-tier Tribunal.

Deputy Upper Tribunal Judge Bruce
11th February 2015