



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: EA/08894/2016

**THE IMMIGRATION ACTS**

Determined at Field House without a  
hearing  
On 26 July 2018

Decision & Reasons Promulgated  
On 2 August 2018

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

SHER AHMED  
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**DECISION AND REASONS**

1. In the light of Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755 and SM (Algeria) [2018] UKSC 9, the First-tier Tribunal erred in law in concluding that it did not have jurisdiction to hear the appeal. Accordingly, and in the light of the respondent's policy where, as here, no findings of fact were made, I am satisfied that the appeal can fairly be determined without a hearing.
2. I am satisfied that that the determination of the First-tier Tribunal did involve the making of an error of law for the reasons set out above, and must therefore be set aside. Given the nature of the error, I remit the appeal to the First-tier Tribunal for a fresh determination on all issues.

**Summary of conclusions**

1. The determination of the First-tier Tribunal did involve the making of an error of law and I set it aside.
2. I remit the decision to the First-tier Tribunal for a fresh decision on all issues
3. The appeal must not be before Tribunal Judge Colvin

Signed

Date: 26 July 2018

A handwritten signature in black ink, appearing to read 'Jeremy Rintoul', written in a cursive style.

Upper Tribunal Judge Rintoul