



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/04456/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**On 22 January 2018**

**Promulgated**

**On 12 February 2018**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**MR AT  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: None

For the Respondent: Ms A Fijiwala, Home Office Presenting Officer

**DECISION AND REASONS**

1. In a decision sent on 20 June 2017, First-tier Tribunal (FtT) Judge M A Khan dismissed the appeal of the appellant, a national of Afghanistan, against the decision made by the respondent on 11 May 2017 refusing him international protection. The appellant has permission to challenge the judge's decision. It is unnecessary to set out details because Ms Fijiwala confirmed that in light of the appellant's application to amend and expand the grounds, the respondent did not oppose the appellant's grounds. The appellant's grounds contended, inter alia, that the judge had failed to treat

the appellant as a vulnerable witness as required by **AM (Afghanistan) [2017] EWCA Civ 1123**.

2. In the nature of the judge's errors it is necessary to set aside his decision and remit it to the FtT to be heard by a judge other than Judge M A Khan.
3. There is one matter on which it may be appropriate for me to make an observation, since it may arise in the next hearing as a point in issue between the parties. It is noted by the judge that in the Reasons for Refusal Letter the respondent accepted that the appellant had given a credible account. The judge took a different view. It is open, of course, to the Presenting Officer at the next hearing to maintain the positive view of credibility taken in the reasons for refusal decision; but if at the new hearing the respondent chooses to withdraw or qualify the view taken therein, then credibility will properly be in issue, so long as the appellant has been given notice of this fact.
4. Accordingly, I direct that within fourteen days of this decision being sent the respondent inform the Tribunal and the appellant's representatives whether at the new hearing there will be any challenge to the credibility of the appellant's account.
5. For the above reasons:

The decision of the FtT Judge is set aside for material error of law.

The case is remitted to the FtT (not before Judge M A Khan).

**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 their 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



Dr H H Storey  
Judge of the Upper Tribunal

Date: 7 February 2018