



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12188/2017

THE IMMIGRATION ACTS

Heard at Field House
On 10 July 2018

Decision & Reasons Promulgated
On 07 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS

Between

I B
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Dolan of Counsel, instructed by Cornerstone Legal Associates

For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a 43 year old citizen of Afghanistan. He appeals against the decision of First-tier Tribunal Judge Pears promulgated on 4 January 2018, dismissing his protection appeal.

2. Permission to appeal was, in the first instance, refused by First-tier Tribunal Judge Hollingworth on 22 February 2018. However, permission was granted by Upper Tribunal Judge Finch on 4 May 2018.
3. It is pertinent to note that the Appellant's grounds of appeal seeking to challenge the decision of the First-tier Tribunal disclose nothing of substance by way of error of law in the fact-finding process of the First-tier Tribunal or otherwise. Indeed, in the main part the grounds seek to raise new matters. In particular, the Tribunal is requested to take into account a material change of circumstances with regard to the Appellant's health condition. In this regard it is to be noted that before the First-tier Tribunal it was expressly indicated that reliance was not being placed upon the Appellant's medical circumstances by reference to either Article 8 or Article 3 of the ECHR: "*Whilst there is some medical evidence in the Respondent's bundle there is no medical report from a consultant and the Appellant does not rely on health issues either under Article 3 or Article 8*" (paragraph 18).
4. Further to this, the Appellant has filed additional evidence before the Upper Tribunal by way of medical evidence and witness statements from both himself and family members. Mr Dolan acknowledged that such materials, not having been before the First-tier Tribunal, were not relevant to the issue of 'error of law'; moreover, insofar as they raised new matters, they again were not relevant at the 'error of law' stage.
5. Notwithstanding the absence of anything of substance in the grounds of appeal, permission to appeal was granted on the basis of the fact of the promulgation of the country guidance case of **AS (Safety of Kabul) Afghanistan CG [2018] UKUT 118 (IAC)**. The decision in **AS** appears to have been promulgated on 28 March 2018, and necessarily therefore post-dates Judge Pears' consideration of the appeal.
6. Permission to appeal appears to have been granted on the basis that the matters set out in **AS** might be pertinent to a consideration of risk factors relevant to the Appellant. However, upon the closer scrutiny that the substantive hearing of an appeal affords compared with the 'application for permission to appeal' stage, it is clear that there is nothing in **AS** that avails the Appellant. Indeed, Mr Dolan is clear and frank in acknowledging as much.
7. So far as the grant of permission to appeal references that **AS** "*considered the position of informers*" - and the inherent or implicit suggestion that this might assist the Appellant - it is not disputed before me that the First-tier Tribunal Judge rejected those aspects of the Appellant's narrative account that related to his claim to be a target of the Taliban by reason of his previous activities. In essence, the First-tier Tribunal did not accept the Appellant's credibility in this regard. Accordingly nothing in **AS** that relates

to the 'position of informers' impacts upon the Appellant's case or Judge Pears' Decision.

8. So far as humanitarian protection is concerned, it is to be noted that the decision in **AS** does not alter the country guidance extant at the time of the hearing before the First-tier Tribunal. Accordingly there can be no suggestion of any material error on the part of Judge Pears in this regard either.
9. For these reasons, notwithstanding the grant of permission to appeal, there is nothing in the case of **AS** that could possibly avail the Appellant. Therefore there is no reason for impugning the otherwise unchallenged findings of the First-tier Tribunal Judge.

Notice of Decision

10. The decision of the First-tier Tribunal contained no error of law and stands.
11. The appeal remains dismissed.

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.

The above represents a corrected transcript of ex tempore reasons given at the conclusion of the hearing.

Signed:

Date: **30 July 2018**

Deputy Upper Tribunal Judge I A Lewis