



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

Appeal Number: PA/10086/2017

THE IMMIGRATION ACTS

**Heard at Birmingham Civil Justice
Centre
On 31 May 2019**

Decision & Reasons Promulgated

On 26 June 2019

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

EMAAD [A]

(anonymity direction not made)

Respondent

Representation:

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer

For the Respondent: Ms E Norman, Counsel instructed by JM Wilson Solicitors

DECISION AND REASONS

1. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal allowing the appeal of the respondent, hereinafter the claimant, against a decision of the Secretary of State refusing him leave to remain on human rights grounds.
2. The difficulty in the decision is that the First-tier Tribunal allowed the appeal on human rights grounds *and* on refugee grounds. There were no refugee grounds raised on which such a decision could hang and the Secretary of State appeals to this Tribunal on the basis that that part of the decision was unlawful. It was, literally, groundless.

3. Mr Mills made it plain that there is no challenge to the decision to allow the appeal on human rights grounds. Ms Norman considered her position but had no serious arguments to go raise against the contention that the Secretary of State's appeal should be allowed to the limited extent outlined by Mr Mills.
4. In the circumstances and we allow the appeal to the extent that we set aside the decision to allow the appeal on Refugee Convention grounds. We make it plain that the decision to allow the appeal on human rights grounds stands.

Notice of Decision

The Secretary of State's appeal is allowed to the limited extent indicated above.



Signed

Jonathan Perkins

Judge of the Upper Tribunal

Dated 25 June 2019