



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2024-000182**  
**First-tier Tribunal No:**  
**HU/00108/2023**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 19 March 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD**

**Between**

**Mr Wilson Franz Maceda Ulo**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**The Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Litigant in person (with a HMCTS interpreter)

For the Respondent: Mr C Avery, a Senior Home Office Presenting Officer

**Heard at Field House on 22 February 2024**

**DECISION AND REASONS**

1. The Appellant is a citizen of Bolivia. His appeal came for consideration on the papers before First-tier Tribunal Judge Hussain. Judge Hussain dismissed the Appellant's appeal by way of a decision promulgated on 8 November 2023.
2. This is my decision which I delivered orally at the hearing today.
3. The Appellant had sought leave to remain on the basis of human rights. The judge noted in particular at paragraph 12 that it was regrettable that the Appellant had not sought an oral hearing and "...had he done so and if the

contents of the statement was found by the Tribunal as fact, the outcome of the appeal could have been different.”

4. In short therefore the judge felt he was unable to allow the appeal because the Appellant had failed to seek an oral hearing. Having dismissed the appeal, the Appellant instructed solicitors to draft grounds of appeal. I have to say that the grounds of appeal are not the clearest or most coherent of grounds, focusing as they do on matters which were not entirely pertinent.
5. Thereafter, the application for permission to appeal came for consideration by First-tier Tribunal Judge Curtis. By way of a decision dated 2 January 2024, Judge Curtis extensively and comprehensively considered the grounds of appeal and the case itself. Indeed, the judge’s reasoning when granting permission to appeal is in exemplary form. Judge Curtis says in part as follows:
  - “4. The Judge does not, in terms, refer to rule 25 of the Tribunal Procedure (First-tier Tribunal) (Immigration & Asylum Chamber) Rules 2014 (which provides the Judge with the procedural power to proceed without a hearing). The Judge refers to a hearing having taken place in [10] but later in the same paragraph confirms that the Appellant had not requested an oral hearing and so he resolved to determine the appeal on the papers. I have considered SSGA (Disposal without considering merits, R.25) [2023] UKUT 00012. In failing to mention rule 25 at all, the Judge arguably falls foul of the requirement in headnote 4(ii) and (iii) to consider whether one of the exceptions in rule 25(1)(a) to (g) apply, to explain why the exception is satisfied and to give reasons for how any discretion conferred by the relevant exception has been exercised.
  5. Instead, the Judge makes a pointed remark that had the Appellant ‘sought an oral hearing’ and were the written testimony to be accepted by the judge, the outcome ‘could have been different’. In light of that observation it appears to me arguable that the Judge was thereafter required to explain why he exercised the discretion to proceed to consider the appeal on the papers rather than adjourning for a substantive hearing.”
6. At the hearing before me today the Appellant appeared as a litigant in person. He spoke via the Tribunal-appointed interpreter.
7. I invited Mr Avery to provide an overview in respect of the Secretary of State’s response. Mr Avery took a very fair approach in this case. Mr Avery said that the main problem was the Appellant’s failure to engage initially with the Secretary of State in relation to queries which were made of him and when he had not responded and then later in respect of the actual appeal itself. That he said had caused problems. Mr Avery said Judge Hussain proceeded in the way that he had, because he had very little else to go on. However, Mr Avery fairly said that considering the grant of permission and the decision of the Upper Tribunal in **SSGA** in the circumstances, it was appropriate for the appeal to be allowed and for the matter to be remitted to the First-tier Tribunal for a complete oral rehearing.
8. In my judgment that concession by Mr Avery is entirely appropriate. I consider the case of **SSGA (Disposal without considering merits, R.25) Iraq [2023]**

**UKUT 00012 (IAC)** and the detailed headnote, in particular paragraphs 4(ii) and 4(iii) which states:

“4. The following guidance applies when consideration is being given to whether or not an appeal should be disposed of without a hearing:

...

(ii) Any decision whether to decide an appeal without a hearing is a judicial one to be made by the judge who decides the appeal without a hearing. The mere fact that a case has been placed in a paper list does not and cannot detract from the duty placed on the judge before whom the case is listed as a paper case to consider for himself or herself whether one or more of the exceptions to the general rule apply. If, having considered rule 25, the judge is not satisfied that at least one of the exceptions in rule 25(1)(a) to (g) is satisfied, the judge must decline to decide the appeal without a hearing and direct the administration to list the appeal for a hearing.

(iii) If a judge decides that one or more of the exceptions in rule 25(1) is satisfied and therefore decides an appeal without a hearing, the judge’s written decision must explain which exception is satisfied and why by engaging with the pre-requisites specified in the relevant provision and giving reasons for how any discretion conferred by the relevant exception has been exercised and/or how any judgment required to be made is made. ....”

9. Therefore in the circumstances and appreciating the difficulties caused by the Appellant, it remained for the judge to consider the appropriateness of a paper hearing. The judge did not engage with any of the aspects highlighted in **SSGA**. Therefore there is a material error of law in the judge’s decision, as conceded by Mr Avery.

10. I have considered the Senior President’s Practice Statement as to where the further hearing shall take place. The matter will be considered afresh at an oral hearing at the Taylor House Hearing Centre. None of the current findings shall stand.

**Notice of Decision**

**There is an error of law in the decision of the First-tier Tribunal.**

**The decision of the First-tier Tribunal is set aside.**

**There will be an oral hearing at the Taylor House Hearing Centre.**

**No anonymity order is made.**

A. Mahmood.

Deputy Judge of the Upper Tribunal

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Immigration and Asylum Chamber

**22 February 2024**