



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/27084/2011

THE IMMIGRATION ACTS

Heard at North Shields  
on 13<sup>th</sup> August 2013

Determination Promulgated  
on 14<sup>th</sup> August 2013

Before

UPPER TRIBUNAL JUDGE HANSON

Between

JOHN THOMAS GOUADJEU YARRO

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel instructed by Miles Hutchinson and Lithgow.

For the Respondent: Mrs Rackstraw – Senior Home Office Presenting Officer.

DETERMINATION AND DIRECTIONS

On 11<sup>th</sup> February 2013 Upper Tribunal Judge Coker found that a panel of the First-tier Tribunal, composed of Judge Trotter and Miss Singer, had erred in law in dismissing the appellant's appeal for the reasons set out in her error of law finding of the same date.

Judge Coker then gave directions, which included that the record of evidence set out in the determination was to stand save where the record is in dispute and that the parties were to notify the other of any challenge to that record within 14 days of receipt of the directions. It was further directed that if agreement to correct the record could not be reached between the parties the Tribunal was to be notified of the dispute within 28

days to enable it to give consideration to future directions. Judge Coker also directed that there will be no oral evidence and that none of the findings in paragraphs 31 to 46 of the determination were to stand.

The appeal was listed for a case management review hearing before Upper Tribunal Judge Freeman sitting in North Shields on 5<sup>th</sup> July 2013. He issued further directions including a direction that the matter be listed on the basis of Judge Coker's ruling of 13<sup>th</sup> February, that any objection to the accuracy of the summary of the oral evidence of the First-tier decision at paragraphs 10 to 20 with details of reasons was to be filed, and that any application for permission to call further oral evidence with accompanying witness statement, or any application to put in further documentary evidence, was to occur within 21 days. Paragraph 3 of Judge Freeman's directions states "no record of First-tier proceedings will be ordered, unless it appears from any objections received under direction 2a that it is required to resolve some significant issue between the parties.

The appellant's representatives filed written submissions challenging the accuracy of the record of the evidence given to the First tier Tribunal and requested a copy of the First-tier Tribunal's record of proceedings. This was considered by the Principal Resident Judge at Field House who referred the matter to Judge Freeman. He 'flagged' what he considered to be the record of proceedings that was to be disclosed. This was sent to the appellant's representatives who promptly responded indicating that the wrong record of proceedings has been sent, as what was sent was in fact Judge Coker's record of proceedings for the 13<sup>th</sup> February hearing.

A request for an adjournment was received from the appellant's solicitors dated 12<sup>th</sup> August 2013 stating that in light of the fact the correct record of proceedings is not available they request the matter be adjourned as it will not be possible to proceed without this information.

At the outset of today's hearing the advocates were advised that no First-tier Tribunal record of proceedings has been retained on the file. This led to a number of options being available though it has to be borne in mind that the original directions provided for submissions only on the basis of an agreed schedule of the evidence being made available to assist the Upper Tribunal.

After further discussion and consultation it was agreed that the only practical solution, as insufficient time had been provided for the giving of oral evidence which was not anticipated today as a result previous directions given and the representatives were unable to agree a schedule of the evidence upon which submissions will be based, was for the appeal to be remitted to the First-tier Tribunal. Accordingly the following directions shall apply to the re-hearing of this appeal:

DIRECTIONS

- 1. The appeal shall be remitted to the First-tier Tribunal sitting at North Shields to be heard by a panel of that Tribunal on Wednesday 9<sup>th</sup> October 2013 at 10 AM. Time estimate four hours (Appellant + three witnesses).
- 2. The appellant and respondent must file a consolidated indexed and paginated bundle containing all the written evidence they intend to rely upon, including witness statements that shall stand as the evidence in chief of the maker, no later than 4 PM 2<sup>nd</sup> October 2013. Any party wishing to file evidence after this time must make a written application to the First-tier Tribunal seeking permission to file such evidence out of time, which must contain a detailed explanation for why they have failed to comply with this direction. It shall be at the discretion of the First-tier Tribunal as to whether additional evidence is admitted late.
- 3. No interpreter is required.

Signed.....  
Upper Tribunal Judge Hanson

Dated the 13<sup>th</sup> August 2013