



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

Appeal Number: AA001972015

THE IMMIGRATION ACTS

**Heard at Royal Courts of Justice,
Belfast
On 26 July 2016**

**Decision &
Promulgated
On 27 July 2017**

Reasons

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MAZEN MOHAMED NASER
(NO ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Jebb, instructed by Nelson Singleton Solicitors
For the Respondent: Mr McVeety, Presenting Officer

DECISION & REASONS

1. In a decision promulgated on 5 November 2015, the President of the Upper Tribunal set out reasons why the decision of the First-tier Tribunal involved the making of an error of law and set it aside. He gave directions with which the parties have complied, and directed that the decision of the First-tier Tribunal be remade in the Upper Tribunal.
2. For a number of reasons, this has not proved possible. The matter was not listed again until 23 February 2017, that hearing being adjourned on the basis of a letter from the appellant's GP stating the he was unable to attend the hearing and would not be able to attend for some months. Although the letter from the Upper Tribunal advised the appellant's solicitors to seek

further medical evidence giving a clear diagnosis and prognosis of the appellant's medical condition, this was not done.

3. On 20 July 2017 a further application for an adjournment on grounds of ill health was made. The letter from the GP stated only that he is "suffering from an agitated depression. This causes extreme anxiety and low mood. I believed that he is not currently medically fit to attend court at present". The appeal was adjourned, and converted into a Case Management Review.
4. As Mr Jebb accepted, the letter from the GP is wholly inadequate. The diagnosis is vague, and no reference is made to any of the recognised disease classification indices. There is no indication of how the diagnosis was reached, or whether the appellant is receiving treatment, or if there is any prognosis for recovery.
5. As both parties agreed, the core issue in this case is the appellant's nationality. It will be necessary to consider all of the evidence, including the Sprakab evidence afresh, and to remake the decision on the appellant's nationality.
6. Given the length of time since the last fact-finding exercise, and given that what is required is a fresh finding on the core issue, I consider that it would now be appropriate and in the interests of justice to remit the appeal to the First-tier Tribunal, a course of action with which both parties agreed.
7. The appellant is put on notice that the First-tier Tribunal is very likely to proceed to remake the decision in his absence without further detailed and cogent evidence of his illness, supported by a report from a psychologist or psychiatrist explaining the reason for the diagnosis, any prognosis, any treatment being given, and why no reasonable adjustments could be made to enable the appellant to give evidence.

Directions

- 1 The appeal is remitted to the First-tier Tribunal to be determined afresh.
- 2 The appeal must not be listed before First-tier Tribunal Judge S Gillespie
- 3 The appeal will be listed on the first available date.
- 4 The appellant must at least 14 days before the hearing set out in writing any reasonable adjustments that he requires to enable him to give evidence.
- 5 Any request by the appellant for an adjournment on medical grounds must be made 7 days before the hearing and must be supported by detailed and cogent evidence of his illness, supported by a report from a

psychologist or psychiatrist explaining the reason for the diagnosis, any prognosis, any treatment being given, and why no reasonable adjustments could be made to enable the appellant to give evidence

Signed

Date: 26 July 2017

A handwritten signature in black ink, appearing to read 'James Rintoul', written in a cursive style.

Upper Tribunal Judge Rintoul