



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

Appeal Number: PA/02178/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 5th April 2017**

**Decision & Reasons Promulgated
On 5th May 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**AAK
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Ms J Isherwood, Home Office Presenting Officer

For the Respondent: Ms G Capel, Counsel instructed by Sultan Lloyd Solicitors

DECISION AND REASONS

1. Although this is an appeal by the Secretary of State I refer to the parties as they were before the First-tier Tribunal.
2. The appellant, a citizen of Iraq, appealed to the First-tier Tribunal against the decision of the Secretary of State dated 22nd February 2016 refusing to grant him asylum or humanitarian protection and deciding that his removal would not breach the European Convention on Human Rights.

3. First-tier Tribunal Judge Turquet heard the appellant's appeal on 4th August 2016. In the 'My Findings' section of the decision, from paragraph 29 to 47 of the decision the judge considered the appellant's asylum, humanitarian protection and human rights appeals. In the body of the decision it is clear that the judge finds against the appellant in terms of his asylum claim, his humanitarian protection claim and in relation to his human rights appeal.
4. Under the heading 'Decisions' the judge said:-
 - “48. The appeal on asylum grounds is dismissed.
 49. The appeal on Humanitarian grounds is dismissed.
 50. The appeal on Human rights grounds is allowed.”
5. The appellant sought permission to appeal against that decision. That application for permission to appeal was refused on 15th September 2016 by First-tier Tribunal Judge Cruthers. The appellant renewed that application for permission to appeal to the Upper Tribunal and that application was refused by Upper Tribunal Judge Storey on 14th November 2016. I note that the application for permission to appeal made by the appellant contends that the judge erred in law in her determination of the asylum, humanitarian protection and human rights grounds. I note that the refusal of permission to appeal by Upper Tribunal Judge Storey deals with all of these grounds including human rights grounds.
6. In an application made on 15th December 2016 the Secretary of State sought permission to appeal on the basis that the judge erred in failing to give reasons for a finding on a material matter. It is pointed out that, although it appeared from the body of the decision that the appeal was being dismissed on all grounds, at paragraph 50 of the decision it states that the appeal was allowed on human rights grounds. It is contended that this is clearly a slip of the pen as the judge's findings demonstrate an intention to dismiss the appeal and there are no findings on which she would have allowed the appeal. It is submitted that there are no reasons provided for the finding at paragraph 50. Permission to appeal was granted to the Secretary of State by First-tier Tribunal Judge Astle on 13th February 2017 on the basis of the apparent error at paragraph 50.
7. At the hearing before me Ms Capel accepted on behalf of the appellant that she could not dispute the grounds put forward by the Secretary of State in relation to paragraph 50. She accepted that the appellant's application for permission to appeal has already been refused by the First-tier Tribunal and the Upper Tribunal, albeit she noted that the appellant's representatives had not received the refusal by the Upper Tribunal on 8th December 2016 as contended by the Tribunal. She submitted that First-tier Tribunal Judge Astle may not have been correct in the permission to appeal decision when she said that the decision in **Katsonga (“Slip Rule”; FtT's general powers) [2016] UKUT 00228 (IAC)** meant that

the slip rule could not be used to reverse the decision. She submitted that the Tribunal may have been able to correct the decision. However, she accepted that as the matter was before me that it was appropriate that I decide that there is an error of law in this decision and remake the decision by dismissing the appeal.

8. It is clear from reading the decision of First-tier Tribunal Judge Turquet that paragraph 50, which purports to allow the appeal on human rights grounds is inconsistent with their findings at paragraphs 44 to 46 of the decision. In these circumstances I am satisfied that the judge has given insufficient reasons for the conclusion at paragraph 50 that the human rights appeal is allowed. In these circumstances I set aside the decision at paragraph 50 and remake the decision by dismissing the appeal on all grounds for the reasons set out in the body of the First-tier Tribunal's decision.

Notice of Decision

9. The decision of the First-tier Tribunal contained a material error of law. I set aside that decision and remake it by dismissing the appeal on all grounds.
10. An anonymity direction is made.

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.

Signed

Date: 3rd May 2017

Deputy Upper Tribunal Judge Grimes

TO THE RESPONDENT **FEE AWARD**

No fee is paid or payable, therefore there is no fee award.

Signed

Date: 3rd May 2017

Deputy Upper Tribunal Judge Grimes