



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

Appeal Number: PA/02596/2018

THE IMMIGRATION ACTS

Heard at Field House

On 1 November 2018

**Decision & Reasons
Promulgated**

On 28 November 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

**MR SAIFULLAH [O]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A McKenzie of Counsel

For the Respondent: Mr T Lindsay, Senior Presenting Officer

DECISION AND REASONS

1. The appellant whose date of birth is 8 August 1985 and a national of Afghanistan appealed against a decision of the respondent refusing his claim for asylum and humanitarian protection in the United Kingdom.
2. First-tier Tribunal Judge Obhi dismissed the appeal in a decision dated 9 August 2018. Permission to appeal was granted by First-tier Tribunal Judge Blundell in a decision dated 7 September 2018. He found that it is arguable that the Judge failed to consider relevant material in concluding that in the final sentence of paragraph 58 that there is no evidence to

suggest that interpreters for international forces are perceived by the Taliban to be spies. The CPI upon which reliance was placed in the grounds arguably supported the contrary view, as did the report of Mr Foxley a British Army officer. Arguably, as contended in the grounds of appeal, interpreters are in a special category which falls outside the scope within the guidance **AS Afghanistan CG [2018] UKUT 118 (IAC)**.

3. The First-tier Tribunal Judge in an extensive decision found that the appellant did not have a high profile unlike teachers and senior members of the government who would be likely to come to the attention of the Taliban but having worked with the international forces. The Judge found that the Taliban did not have sufficient resources to target low-level individuals who have worked for the international forces in Kabul, as the Taliban tended not to follow those who had ceased working for the security services. The Judge found that in the case of HMV it was found that an interpreter who had worked for the international forces did not have a high profile and was unlikely to be at risk in Kabul. The Judge found the appellant was like a low-level collaborator and the Taliban would not be interested in devoting part of its limited resources to track down the appellant in Kabul in order to assassinate him. The Judge stated that taking into account the objective evidence, the decided case law and the appellant's evidence that he received a visit from the Taliban, that it is not reasonably likely that the appellant would have attracted the attention of the Taliban or that they would view him as a spy as he claims. The Judge found that the fact that the appellant has been in the United Kingdom for a period of time does not increase his risk. She said that there is no evidence that the appellant was a high level interpreter and there is no evidence that he has been perceived to be a spy by the Taliban simply because he worked as an interpreter. The Judge concluded that there is no evidence to suggest that interpreters are seen as such.
4. The grounds of appeal state the issue in the appeal was whether the appellant would be at risk in his home area of Afghanistan considering his work as an interpreter and/or based on the threats received by the Taliban. The issue for the Judge to determine was whether he could safely and reasonably relocate to Kabul considering the evidence specially related to risk to interpreters and the guidance in **AS. Afghanistan** considering all the relevant factors including his mental health. The Judge accepted that the appellant was an army interpreter and she accepted his diagnosis of PTSD. However, the Judge did not accept that the appellant had received threats from the Taliban as claimed. The Judge found that the appellant could not relocate reasonably to his home area but found that he could relocate to Kabul.
5. The Judge also did not make any findings on whether the appellant would face very significant obstacles to reintegration in respect of paragraph 276 ADE of the immigration rules. The case of **AS Afghanistan** does not address the specific position of interpreters working for foreign forces as it

is not mentioned at all. It also does not make clear which of these categories of potential target interpreters would generally fall into.

6. The grounds of appeal refer to background evidence including a report from a former British officer in Afghanistan that appellant's claim that he would be at risk in Kabul as an interpreter for foreign forces is well placed. The Judge found at paragraph 58 of the decision that there was no evidence that the appellant was perceived to be a spy by the Taliban simply because he worked as an interpreter and further that there is no evidence that interpreters are considered to be spies. These findings of the Judge are unsustainable because there was abundant evidence to demonstrate that interpreters will be seen as spies and were at real risk from the Taliban. The Judge failed to take relevant background evidence into account in reaching his conclusion.

Decision on whether there is an error of law

7. I have considered the decision of the First-tier Tribunal Judge with great care to determine whether he fell into material error. I agree with permission Judge Blundell that the Judge fell into material error by making a bold statement that there was "no evidence" to suggest that interpreters for international forces are not perceived by the Taliban to be spies. There was evidence before the Judge which could arguably point to the opposite view. The Judge failed to appreciate that **AS Afghanistan** does not specifically consider the category into which interpreters for international forces could fall and therefore all the evidence should have been looked at in the round. This error renders the decision unsafe.
8. At the hearing it was agreed that if I was to find an error of law the decision, the appeal be remitted to the First-tier Tribunal so that all the evidence in the appeal can be evaluated within the background evidence as to whether the appellant can safely relocate to Kabul as a former interpreter for the international forces.
9. Therefore, I direct that the appeal be remitted to the First-tier Tribunal and that the appeal be placed before any First-tier Tribunal Judge other than Judge Obhi to be heard de Novo.

Notice of Decision

The appeal be remitted to the First-tier Tribunal
No anonymity direction is made.

Signed by

Dated 21st day of November 2018

A Deputy Upper Tribunal Judge
Ms S Chana