



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/04548/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 28 February 2018**

**Decision & Reasons
Promulgated
On 20 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

**A C
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Malhotra, of Counsel instructed by Legis Chambers
For the Respondent: Ms Z Ahmad, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against a decision of Judge of the First-tier Tribunal Hawden-Beal who in a decision promulgated on 18 July 2017 dismissed his appeal against a decision of the Secretary of State to refuse to grant asylum.
2. The grounds of appeal relate solely to the refusal by the judge to grant an adjournment on the basis that the appellant could not understand the interpreter. When the application for an adjournment was made by the appellant's Counsel the judge refused the adjournment, although she gave time to the appellant's Counsel to take further instructions. The appellant had asserted that he could only understand 30% to 40% of the translation

of the interpreter. The grounds claimed that this raised an issue of fairness and stated that the judge had been wrong to state that what was relevant was her understanding of the questions and the answers and also to say that that where it appeared that there were three questions and answers which the appellant could not understand she would strike those answers from the record.

3. When permission to appeal was granted the Secretary of State, in a Rule 24 statement, referred to the fact that the judge had said that she would not consider the answers to questions which the appellant had said that he had not understood. The rule 24 statement also stated that the Presenting Officer's post-hearing minute did not suggest that Counsel had formally requested an adjournment.
4. When the hearing came before me there were witness statements from the appellant who set out in some detail what questions he had not understood, and also emphasised that the interpreter had a different dialect from him as the interpreter was from the Yemen and spoke Saudi Arabian Arabic, whereas the appellant himself was from Lebanon and spoke Lebantine Arabic. He stated that although there was some common words, each dialect had its own distinctive vocabulary. He again repeated that he could only understand 30% to 40% of the questions being put to him.
5. The appellant's wife repeated what the appellant had stated in his statement. Moreover, there was a witness statement from Mr Nazar Mohammad who had been the appellant's Counsel at the hearing. He set out the applications for an adjournment which he had made and that the interpreter had said that he could not understand the appellant. He stated that he had raised with the judge the level of understanding and his concerns about fairness and asked for an adjournment.
6. In the light of the statements produced before me and in particular that of the appellant's Counsel, I asked Ms Ahmad what were her comments. She stated that she would not oppose the appellant's appeal.
7. I consider that that was the correct course of action. While I have considerable sympathy for the judge who clearly conscientiously did her best to understand the proceedings and to deal with the evidence before her fairly, I consider that there may well be a perception that the appellant did not have a fair hearing and therefore I should set aside the decision of the First-tier Judge and remit this appeal for a further hearing afresh in the First-tier Tribunal.

Notice of Decision

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

This appeal is remitted for a hearing afresh in the First-tier Tribunal.

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: 18 March 2018

Deputy Upper Tribunal Judge McGeachy