



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04733/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 28 September 2018

Decision & Reasons Promulgated  
on 03 October 2018

Before

**UPPER TRIBUNAL JUDGE GLEESON**

Between

**I U D**  
[ANONYMITY ORDER MADE]

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

**Anonymity order**

*The First-tier Tribunal made an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008: unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall identify the original appellant, whether directly or indirectly. This order applies to, amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.*

**Decision and reasons**

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse him international

protection under the Refugee Convention, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Afghanistan and is an unaccompanied asylum-seeking child (he is 15).

### **First-tier Tribunal decision**

2. In the First-tier Tribunal decision, at [16]-[22], the First-tier Judge made findings of fact in the appellant's favour. The First-tier Judge found that the appellant had been unable to contact his family in Afghanistan since coming to the United Kingdom, that the representative had not taken any substantive steps to trace his family members, and that recent contact between the appellant and the Red Cross had not resulted yet in any substantive steps to trace the appellant's family members. The Judge found that:

"20. Based on the above circumstances, I have concluded that the appellant would probably have no family support available to him on a return to Kabul. I have noted the decisions in *LQ* [2008] UKAIT 00005 and *AA* (unattended children) Afghanistan [2012] UKUT 00016. The appellant would be returned as an orphaned child. I have noted that the lack of someone to receive the appellant on return to Kabul would compel the grant of asylum. However I have noted and accept that the appellant has been targeted by the Taliban as a potential recruit.

21. I have noted the respondent's Country Policy and Information Note *Afghanistan: Unaccompanied Children* dated April 2018. I have noted paragraph 2.6.3 which states:

*In the absence of an adult male relative who is willing and able to provide care and support for the child, internal relocation is likely to be unreasonable.*

22. The appellant will not have the protection of his family on return to Afghanistan. He will be susceptible to the risks specified in paragraph (2) to the headnote in *AA*. I find that he faces a real risk of the kind of persecution and mistreatment specified in that paragraph. At this time, he cannot be returned to Afghanistan and I allow this appeal."

3. However, under the heading Notice of Decision, the Judge dismissed the appellant's appeal. The appellant appealed.

### **Permission to appeal**

4. On 3 August 2018, First-tier Judge O'Garro granted permission to appeal based on the conflict between [22] and the Notice of Decision.

### **Respondent's response**

5. The respondent has not filed a Rule 24 Reply, but by a letter dated 20 September 2018, he indicated that he did not oppose the application for permission to appeal and that the respondent invited the Tribunal to determine the appeal on the papers, in light of the findings of fact made in the body of the decision.
6. That is the basis on which this appeal came before the Upper Tribunal.

## Discussion

7. I have considered the decision on the papers, as requested.
8. A request to amend under rule 31 (the slip rule) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 was rejected pursuant to *Katsonga v Secretary of State for the Home Department* [2016] UKUT 228 (IAC) which held that '[the] 'Slip Rule', rule 31 of the First-tier Tribunal Procedure Rules, cannot be used to reverse the effect of a decision'.
9. It would have been open to the First-tier Tribunal, once the application for permission to appeal had been received, to review the decision under Rule 35 of the First Tier Procedure Rules, which provides a procedure for correction of a patently erroneous decision. That has not been done.
10. Both parties agree that the Notice of Decision is erroneous. It is plain from the body of the decision that the Judge intended to allow the appeal.
11. I have had regard to the findings of fact in the decision, which are not challenged. I set aside the decision of the First-tier Tribunal and substitute a decision allowing the appeal.

## DECISION

12. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law. I set aside the previous decision. I remake the decision by allowing the appeal.

Date: 28 September 2018

Signed

*Judith AJC Gleeson*

Upper Tribunal Judge Gleeson