



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/06436/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 30th January 2018**

**Decision & Reasons Promulgated
On 5th February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

**MOHAMMED ASIF MAROOFKHAIL
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Asanovic Counsel instructed by Lawrence & Co Solicitors

For the Respondent: Mr Bramble, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Mr Mohammed Asif Maroofkhail date of birth 10th August 1989, is a citizen of the Afghanistan. No anonymity direction was made previously. Having considered all the circumstances, I do not make an anonymity direction.
2. This is an appeal by the appellant against the decision of First-tier Tribunal Judge Carroll.
3. The appellant first entered the United Kingdom in September 2006. He claimed asylum. Thereafter in a decision by the respondent dated May 2009 the respondent refused the appellant's claim. There was no appeal against that refusal.
4. On 23 May 2016 solicitors acting on behalf of the appellant submitted a fresh claim. That resulted in the decision of 3 June 2016 in which the

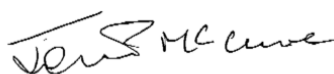
appellant's claim was refused. The appellant appealed against that decision.

5. The appeal appeared before First-tier Tribunal Carroll at Taylor House on 19 July 2017. By decision promulgated on 31 July 2017 Judge Carroll dismissed the appellant's appeal on all grounds.
6. The appellant appealed against that decision. There are lengthy grounds of appeal submitted in the appeal bundle, including detailed grounds to the Upper Tribunal for leave to appeal. By decision of 27 November 2017 Upper Tribunal Judge Jordan granted permission to appeal.
7. The detailed consideration of the Grounds of Appeal is not necessary. At the commencement of the hearing before me the representative for the respondent conceded that for the reasons set out in the decision of Upper Tribunal Judge Jordan and as set out in the Grounds of Appeal the decision of the First-tier Tribunal Judge there were material errors of law in the decision.
8. Initially the representative for the respondent maintained that elements of the decision of the First-tier Tribunal Judge could be sustained, for example the findings of fact with regard to the petitions set out at paragraphs 26 and 28 of the judgement. The representative for the appellant was asked in detail to point out the inadequacies within the assessment by the judge of the evidence which undermine the conclusions of fact reached.
9. The appellant's representative in a careful a very structured manner referred to the reports of the 2 experts, Dr Guistozzi and Mr Zadeh, pointing out where the experts had specifically dealt with aspects of the petitions but the judge appears not to have taken account of the evidence of the experts.
10. After due consideration it was accepted that the judge had failed to take account of material parts of the experts' report and that accordingly the findings of fact made could not stand.
11. In light of the concession made by the representative for the respondent, the only course is for the decision of the First-tier Tribunal to be set aside and for this matter to be remitted to be heard afresh at Taylor House by Judge other than Judge Carroll.

Notice of Decision

12. I allow the appeal and remit the case for a hearing afresh in the First-tier Tribunal.
13. I do not make an anonymity direction.

Signed



Deputy Upper Tribunal Judge McClure

Dated 30th January 2018