



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

Appeal Number: PA/08141/2018

THE IMMIGRATION ACTS

Heard at Field House

**Determination &
Promulgated**

Reasons

On 14 November 2018

On 21 December 2018

Before

UPPER TRIBUNAL JUDGE CONWAY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

I U S

(Anonymity Order Made)

Respondent

Representation:

For the Appellant: Ms Everett, Senior Home Office Presenting Officer

For the Respondent: Mr Basharat Ali, Aman Solicitors

DECISION AND REASONS

1. For convenience I retain the designations as they were before the First-tier Tribunal thus IUS is the appellant and the Secretary of State, the respondent.
2. The appellant is a citizen of Afghanistan. His age is disputed. He appealed against a decision of the respondent made on 14 June 2018 to refuse his claim for asylum.

3. His claim, in summary, was that the Afghan authorities detained him for a week. They had come to his home asking about his father as they suspected he might have been involved with the Taliban. His father had been forcibly taken by the Taliban and some months later killed while engaged with them. The Taliban had then wanted the appellant to join them. To avoid this his mother sent him away and he was later able to leave Afghanistan. Soon after his mother died of a heart attack.
4. The respondent did not believe the appellant had been targeted by the Taliban or had problems from the authorities. The respondent also considered that he was not a minor as claimed.
5. He appealed.

First-tier Hearing

6. Following a hearing at Taylor House on 26 July 2018 Judge of the First-tier Tribunal Farrelly allowed the appeal on asylum grounds and under Articles 2 and 3 (ECHR).
7. His findings are at paragraph [10]ff. He accepted that the appellant was from Baghlan province. He found that the appellant was born in 2000 and was, thus, a minor at date of application in October 2015.
8. He went on to note medical evidence which the author found to be highly consistent with his claim to have been assaulted by the authorities and that he has post-traumatic stress disorder also consistent with his account, as well as moderate depression.
9. The judge [20] concluded that the appellant would be at risk in his home area. Moving on to consider relocation the judge dealt with this at [21]ff. He noted the recent country guidance **AS (Safety of Kabul) Afghanistan CG [2018] UKUT 118** and its comment that it would not in general be unreasonable for a single adult male in good health to relocate to Kabul even without specific connections or support networks. However, that it is necessary to consider the particular circumstances of the individual [21].
10. He continued by noting a Medical Foundation report and a report by a psychologist referred to therein. It was noted that the appellant had undergone a six month programme of psychotherapy. It was considered that, as such, he had not been fabricating his symptoms of PTSD and depression. The judge appeared to accept that evidence [22].
11. At [23] the judge turned his attention to the availability of medical treatment in Kabul. He noted a document in the respondent's bundle which suggested that inpatient treatment and various medications are available in the hospital there, also cognitive behavioural therapy. Another document stated that Kabul Psychiatric Hospital is the only clinic

of its kind in the capital. There is a mental health crisis in Afghanistan. Mental handicap is seen as a major deficit.

12. The judge concluded on this matter, at [25], that the appellant is a young man who came here as a minor, he has "*mental vulnerability*." Although he is "de facto" married [26] to a British citizen [24], he has not been living with his wife [25] and it is not known whether she would go with him or stay [25]. He then found that there is no evidence of any family support albeit family here may be able to provide some help and there would be a resettlement package. Bearing in mind his "*age, personal circumstances, his mental vulnerability and the absence of any particular skills*" it would be unduly harsh for him to relocate to Kabul.
13. The respondent sought permission to appeal which was granted on 21 September 2018.

Error of Law Hearing

14. At the error of law hearing before me Ms Everett sought only to pursue the second of the two grounds of appeal. In brief, the judge's analysis of internal relocation was inadequate particularly in respect of his mental health. There was a lack of findings on what treatment the appellant may need on return and if there is sufficient treatment available for such. It appears that he is not currently receiving any treatment for his mental health problems in the UK.
15. Mr Ali's reply was that the judge's analysis had been sufficient. He had directed himself appropriately. This is not per se a mental health case. The appellant clearly has difficulties. The fact that he is not getting treatment does not mean that he is not currently suffering. Looked at in the round the decision was sustainable.

Consideration

16. I agree with Ms Everett. The judge's consideration of the mental health evidence is inadequate in supporting the conclusion that it would be unduly harsh for the appellant to relocate to Kabul. Whilst his "*mental vulnerability*" was not the only factor it was the principal factor.
17. However, he failed (at [23]) to resolve the conflict of fact or opinion on the availability of mental health provision in Kabul. On the one hand he noted the evidence that there is a mental health crisis in Afghanistan and that mental handicap is seen as a major deficit. On the other hand he noted that the psychiatric hospital there does free check-ups, that inpatient treatment is available as are various medications as well as cognitive behavioural therapy.
18. He failed to make clear, reasoned findings on whether there is sufficient treatment for the appellant in Kabul. He simply recorded the evidence. As

a result it is unclear whether there is sufficient mental health provision for the appellant on return and any treatment he may require on return. As Ms Everett noted the judge failed to consider that the appellant does not appear to be receiving any treatment for his mental health problems in the UK.

19. In failing to make adequate findings the judge materially erred.
20. In considering the appropriate way to proceed, no challenge has been made by the respondent to the findings and conclusion that the appellant would be at real risk on return to his home area. The only issue is internal relocation. I consider that the appropriate course is for the case to be remitted to the First-tier Tribunal to make proper, reasoned, findings on internal relocation to Kabul.

Decision

21. The decision of the First-tier Tribunal is set aside but only to the extent that the issue of internal relocation is to be reconsidered. The findings in respect of risk elsewhere in Afghanistan stand. The case is remitted to a judge other than Judge Farrelly to make a fresh decision on internal relocation.

An anonymity order is made. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. This order applies both to the appellant and to the respondent. Failure to comply with this order could lead to contempt of court proceedings.

Signed

Upper Tribunal Judge Conway
December 2018

Date: 19