



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

Appeal Number: HU/09056/2017

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
On 12 February 2019**

**Decision & Reasons
Promulgated
On 26 February 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**HK
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Markus, instructed by Turpin & Miller LLP

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

DECISION AND REASONS

1. The appellant, HK, was born in 1993 and is a male citizen of Malawi. He committed a number of criminal offences in the United Kingdom, details of which are set out in the First-tier Tribunal decision at [5]. The respondent made a decision to deport him and to refuse his human rights claim. The appellant appealed against the refusal of his human rights claim to the First-tier Tribunal (Judge Thorne) which, in a decision promulgated on 3 April 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the initial hearing at Manchester on 12 February 2019, both representatives told me that they agreed that the decision should be set aside. As Upper Tribunal Judge Kekić noted when granting permission to appeal, the judge had “erred in making no findings on the various strands of the appellant’s private/family life pertaining to relationships with his girlfriend (albeit of just one year) his grandmother and his brother all of whom gave evidence in support of the appeal”.
3. I note that those witnesses referred to by Judge Kekić did, indeed, give evidence. The judge gives a very brief summary of the evidence which they gave to the Tribunal at [13-19]. Thereafter, the judge sets out *in extenso* the law relating to deportation and then identifies as “the real question” whether there are “very compelling circumstances which outweigh the public interest in deportation” [36]. At [41], the judge indicated “the hard life and sad personal circumstances” of the appellant did not constitute “very compelling circumstances”. At [42], the judge concluded “in all the circumstances” that the appeal should be dismissed. He has not, as the grounds point out, made any attempt to analyse the various relationships upon which the appellant seeks to rely including that with his girlfriend who the judge noted at [13] is “expecting a child”. It may well be the case that the appellant’s relationships with adult family members are not such as to enable him to succeed in his human rights appeal but the analysis of the judge, without making findings regarding their evidence, is unfortunately so brusque as to render it inadequate. I agree with both advocates that the decision of the First-tier Tribunal needs to be set aside. Given the extent of fact-finding required in this appeal, the appeal will need to be remitted to the First-tier Tribunal.

Notice of Decision

4. The decision of the First-tier Tribunal which was promulgated on 3 April 2018 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Judge Thorne) for that Tribunal to re-make the decision.
5. An anonymity direction is made.

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 12 February 2019

Upper Tribunal Judge Lane

