



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

Appeal Number: PA/08107/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 18 February 2019**

**Decision Promulgated  
On 21 February 2019**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**KRISHNAN [S]**

Appellant

**and**

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

Respondent

**DECISION OF THE UPPER TRIBUNAL  
PURSUANT TO RULE 40(3)(a) OF  
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse him international protection or leave to remain in the United Kingdom on human rights grounds.
2. Permission to appeal was granted on 13 December 2018, Judge O'Garro considering that the First-tier Judge had arguably failed to have regard to the respondent's supplementary refusal letter of 23 August 2018, and/or properly considered the medical evidence of Dr Lawrence, especially with regard to Article 3 ECHR (see [38] and [42] of the First-tier Tribunal decision).

3. By a Rule 24 Reply dated 13 February 2019, the respondent concurred. He did not oppose the appellant's application for permission to appeal and invites the Upper Tribunal to remit the protection and human rights appeal to the First-tier Tribunal for rehearing afresh, without a hearing in the Upper Tribunal, in the interests of justice and of saving costs for both parties.
4. Pursuant to rule 40(3) of The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), the Upper Tribunal is not required to provide written reasons for its decision under paragraph 40(2)(a) of the Rules, where the decision is made with the consent of the parties (rule 40(3)(a)) and both parties agree that no written reasons need be provided.
5. In this case, both parties agree that the decision of the First-tier Tribunal must be set aside. I am satisfied that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice. I therefore set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The appeal will now proceed to the stage in which the First-tier Tribunal will remake the decision to allow or dismiss the appeal on the basis described in the grant of permission.
6. Pursuant to rule 40(3) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no written reasons will be provided unless, within 3 days of the sending out of this decision, either party indicates in writing that they do not consent to the appeal being disposed of in the manner set out at (5) above.
7. If in consequence an oral hearing is required, but the outcome is the same, the Upper Tribunal will consider making an order for wasted costs.

Signed: **Judith A J C Gleeson**  
February 2019  
Upper Tribunal Judge Gleeson

Date: 18