



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

Appeal Number: PA/08764/2017

THE IMMIGRATION ACTS

Heard at Bradford

On 4 January 2019

**Decision & Reasons
Promulgated
On 7 March 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

DH

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Jagadesham

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq who was born in 1989.

2. At the initial hearing at the Upper Tribunal, both representatives agreed that the tribunal had erred in law, that its decision felt to be set aside and that the Upper Tribunal should remake the decision on the existing evidence allowing the appeal on human rights grounds (Article 8 ECHR). Mrs Pettersen, for the Secretary of State, accepted that, subject to Section 117B6 of the 2002 Act, it would not be reasonable to expect the British citizen child of the appellant to live in Iraq. The judge had misdirected himself with regard to relevant jurisprudence (e.g. *EV (Philippines)* [2014] EWCA Civ 874) and his finding in respect of Section 117B6 was perverse.
3. I agree with the representations made to me by both representatives. I set aside the First-tier tribunal decision. I remake the decision allowing the appeal on human rights grounds (Article 8 ECHR).

Notice of Decision

4. The decision of the First-tier tribunal which was promulgated on 9 April 2018 is set aside. I have re-made the decision. The appellant's appeal is allowed on human rights grounds (Article 8 ECHR).

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 2 February 2019

Upper Tribunal Judge Lane