



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

Appeal Number: PA/02417/2019

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
On 29 July 2020 by Skype.**

**Decision & Reasons Promulgated
On 17 August 2020**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**EA
(anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Loughran instructed by Luqmani Thompson & Partners, Solicitors

For the Respondent: Mr McVeety Senior Home Office Presenting Officer.

DIRECTIONS

1. By a decision dated 4 June 2020 the Upper Tribunal found a judge of the First-Tier Tribunal had erred in law in a manner material to the Judge's decision to dismiss the appeal.
2. The Error of Law assessment was undertaken on the papers in accordance with the Covid-19 protocol issued by the Upper Tribunal. At that date, as recorded at [8] of the Error of Law finding, representations had been received from the appellant with nothing from the Secretary of State. Those submissions were subsequently

received in a letter dated 3 June 2020 by way of a Rule 24 response the operative part of which is in the following terms:

“in response to the directions sent 12 May 2020, having considered the grounds and detailed further submissions lodged on behalf of the appellant the SSHD accepts that the First-Tier Tribunal Judge (FTTJ) materially erred. In the granting permission to appeal First-Tier Tribunal Judge Kelly limited the grounds to 2-5. The SSHD accepts that the FTTJ erred in relation to grounds 4 and 5 namely the consideration of the evidence in relation to the appellant’s claimed mental health conditions and credibility of the account given for the reasons given in the grounds/further submissions. It is accepted that the FTTJ failed to make a finding on weight to be afforded to the medical and witness evidence nor has he provided adequate reasons for his conclusions. This impacts on the materiality of access to medical assistance has raised in ground 3. Given the conclusions in relation to these aspects have a material impact on the consideration of risk on return/reasonableness of return to Kabul, the SSHD agrees with the proposal in the Grounds and submissions that it will be appropriate for this matter to be remitted to the First-Tier Tribunal for a rehearing of the evidence.”

3. The appeal was listed for a remote, via Skype, Resumed hearing at Manchester on the 29 July 2020. It was specifically directed that an interpreter be provided to assist the appellant in Pushtu. Unfortunately, one did not attend, remotely or otherwise, meaning the hearing could not proceed.
4. Miss Loughran made two applications as preliminary issues, the first was to be for the hearing not to proceed remotely for the reasons stated but this was overtaken by the fact we could not proceed.
5. The second was for the matter to be transferred to the First-tier Tribunal.
6. Although such application had been refused on the papers it is clear this is a case in which a judge will have the benefit of seeing and hearing the appellant give his evidence directly as his maturity and level of ability to cope is an issue said to be relevant to whether he will be able to cope in Kabul or not.
7. It was also agreed previously that the appellants former foster mother could sit by the appellant when he gave his evidence which did not happen with the remote hearing.
8. Mr McVeety also indicated that the current psychiatric evidence was out of date and not of the highest quality. Miss Loughran confirmed that an up to date report will be obtained to assist the Tribunal.
9. It is likely in this case that extensive fact finding is required especially in relation to the recent cases of AS(Safety of Kabul) Afghanistan CG [2020] UKUT 130 (IAC) which found that an individualised assessment of relocation required, which has not been considered at all in this appeal to date, and DH (Particular Social Group: Mental Health) Afghanistan [2020] UKUT 223 (IAC), which may be relevant if a full and detailed psychiatric report is obtained.
10. Accordingly this case is adjourned to be transferred to the First-tier Tribunal sitting at Taylor House for a face to face hearing before a judge nominated by the Resident Judge of that hearing centre, other than Judge Abebrese.

Signed.....
Upper Tribunal Judge Hanson

Dated the 10 August 2020