



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

Appeal Number: PA/05144/2019

THE IMMIGRATION ACTS

**Decision on the papers, At Field House
On 28 February 2020**

**Decision & Reasons Promulgated
On 5 March 2020**

Before

UPPER TRIBUNAL JUDGE FINCH

Between

I M C

Appellant

-and-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

ERROR OF LAW DECISION

UPON the Respondent having refused to grant the Appellant asylum on 15 May 2018

AND UPON First-tier Tribunal Judge Rowlands having dismissed his subsequent appeal in a decision promulgated on 19 August 2019

AND UPON the Appellant having appealed against this decision and First-tier Tribunal Judge Landes having granted him permission to appeal on 6 January 2020

AND UPON the Secretary of State responding to the grounds of appeal under Rule 24 on 31 January 2020 and stating that:

“The respondent does not oppose the appellant’s application for permission to appeal as it appears that a procedural error has occurred before the FTT in failing to take into account the appellant’s claimed vulnerability and failing to adjourn the hearing. The tribunal is invited to remit the matter back to the FTT for a de novo hearing”.

AND UPON the Appellant consenting on 13 February 2020 to the appeal being considered on the papers with a view to the appeal being remitted to the First-tier Tribunal for an oral hearing

AND UPON the error of law hearing being listed for 28 February 2020 but being vacated

ANONYMITY ORDER

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI/2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify that Appellant. This prohibition applies to, amongst others, both parties.

1. As both parties had consented to my hearing the appeal on the papers with a view to remitting it to the First-tier Tribunal, I considered the appeal under the powers deriving from Regulation 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008, as amended.
2. It was clear from the decision of First-tier Tribunal Judge Rowlands, promulgated on 19 August 2019, that despite being informed that the Appellant had been referred to Freedom from Torture for an assessment and for psychotherapy, he failed to treat the Appellant as a vulnerable witness and grant an adjournment in order for him to instruct further legal representation. This was an error of law and procedure.
3. The Judge also proceeded in the absence of a copy of the Rule 35 medical report mentioned in the Respondent’s Bundle and which was the basis of the Appellant’s release from

immigration detention. This also amounted to an error of law as it went directly to the question of the Appellant's credibility.

4. For these reasons and with the consent of both parties, I find that it is in the interests of justice to remit this appeal to the First-tier Tribunal for a *de novo* hearing before a First-tier Tribunal Judge, other than First-tier Tribunal Judges Rowlands and Landes.
5. The Appellant should seek time and permission to rely on further evidence from the First-tier Tribunal.

Nadine Finch

Signed

Date 28 February 2020

Upper Tribunal Judge Finch