



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: PA/05571/2019 (P)**

THE IMMIGRATION ACTS

**Decided Under Rule 34 (P)**

**On 28 September 2020**

**Decision & Reasons  
Promulgated**

**On 01 October 2020**

Before

**UT JUDGE MACLEMAN**

Between

**H H**

and

Appellant

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

Respondent

**DETERMINATION AND REASONS**

1. This determination is to be read with:
  - (i) The respondent's decision dated 29 May 2019.
  - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) The decision of FtT Judge Green, promulgated on 16 August 2019, dismissing his appeal.
  - (iv) The appellant's grounds of appeal, stated in the application to the UT dated 7 October 2019, incorporating an application to admit further evidence.
  - (v) The grant of permission by the UT, dated 10 October 2019, incorporating directions.

- (vi) The appellant's response, dated 31 October 2019.
  - (vii) The UT's further directions, issued on 6 April 2020, with a view to deciding without a hearing (a) whether the FtT erred in law and (b) if so, whether its decision should be set aside.
  - (viii) The SSHD's response, headed "skeleton argument", dated 23 April 2020.
  - (ix) The appellant's application, dated 1 May 2020, for extension of time.
  - (x) The UT's directions, dated and issued on 7 May 2020, extending time.
  - (xi) The appellant's written submissions, dated and filed on 14 May 2020.
2. The case is suitable for decision without a hearing.
  3. The further materials on which the appellant seeks to rely are accepted for consideration.
  4. These materials confirm that the "Taliban" often refers to itself as the "Islamic Emirates"; two names for the same group.
  5. The materials also show that the appellant in evidence used the terms "Taliban" and "Islamic Emirates", but not the term "Islamic State". However, his evidence was at some points rendered into English as "Islamic State".
  6. With the benefit of scrupulous hindsight, it can be seen that misunderstanding has arisen. It would be a futile exercise to apportion responsibility among interpreters, the presenting officer, the appellant's representatives, and the judge.
  7. The upshot was that the judge perceived a "three-way discrepancy" (as the appellant now puts it) which did not objectively exist.
  8. The incorrectly perceived discrepancy was not the only reason for holding against the appellant; but it cannot safely be said that but for this error, or unfairness, the outcome must have been the same.
  9. The decision of the First-tier Tribunal is set aside. The case is remitted to the FtT for a fresh hearing, not before Judge Green.
  10. The FtT made an anonymity direction, which is preserved.

Hugh Macleman  
UT Judge Macleman  
28 September 2020

**NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A **"working day"** means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.