



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: RP/00151/2018 (P)**

THE IMMIGRATION ACTS

**Decided under rule 34 of the Tribunal
Procedure
(Upper Tribunal) Rules 2008
On 21 May 2020**

**Decision & Reasons
Promulgated
On 22 May 2020**

Before

THE HON. MR JUSTICE LANE, PRESIDENT

Between

**SJ
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The appellant, a citizen of Afghanistan, appealed to the First-tier Tribunal against the decision of the respondent to refuse the appellant's protection and human rights claims and revoke his refugee status.
2. The appellant's appeal was heard at Harmondsworth in November 2019 by First-tier Tribunal Judge M A Khan. The judge dismissed the appellant's appeal.
3. Permission to appeal to the Upper Tribunal was granted by the First-tier Tribunal in January 2020. The First-tier Tribunal considered that the judge had arguably erred by making significant errors of fact; making a misdirection of law; failing to understand the parties' cases; making

erroneous findings; and purporting to dismiss the appeal under the Immigration Rules.

4. The appeal was due to be heard in the Upper Tribunal on 24 March 2020 but the hearing had to be cancelled as a result of the Covid-19 pandemic. On 23 April 2020, the Upper Tribunal sent a Note and Directions, in which I expressed the provisional view that, notwithstanding the Secretary of State's skeleton argument, filed by the respondent in connection with the aborted hearing of 24 March, the grounds of challenge made it plain that Judge M A Khan's decision was vitiated by legal error and could not stand.
5. In response to my directions, Ms Sanders has filed written submissions dated 5 May 2020. The respondent has not chosen to file anything further.
6. Insofar as errors of fact are concerned, it is, in my view, manifest that the First-tier Tribunal Judge failed to have regard to relevant evidence. He described having a bundle of 187 pages, whereas in fact there was an 800 page bundle. He described the appellant as committing "serious violent offences", which was not the case. He found that the appellant had committed "aggravated burglary", when the appellant had in fact been convicted of "simple burglary".
7. With respect to the respondent, these are far from being typographic errors.
8. In addition, the First-tier Tribunal Judge made, at best, unclear findings regarding the death of the appellant's father. Insofar as the First-tier Tribunal Judge appeared to think that the Red Cross had not corroborated the appellant's alleged efforts to find his family through them, the First-tier Tribunal Judge failed to note the determination of an earlier judge, who accepted that the appellant had tried his best and that a referral to the British Red Cross International Tracing Service had been made (albeit with no successful outcome).
9. The First-tier Tribunal Judge wrongly held that the appellant had put forward "no serious case" under Article 8. On the contrary, detailed submissions had been made on this issue, contrasting the life that the appellant had in the United Kingdom with the one which he was said to face, if returned to Afghanistan.

Decision

I am entirely satisfied that the decision of the First-tier Tribunal Judge cannot stand. I set his decision aside. Since the entirety of the fact-finding exercise will have to be re-conducted, I consider that the appropriate is for the matter to be remitted to the First-tier Tribunal, for fresh findings on all issues.

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 their 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
Mr Justice Lane

Dated: 21 May 2020

The Hon. Mr Justice Lane
President of the Upper Tribunal
Immigration and Asylum Chamber

