



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-001334
On appeal from: PA/50805/2021
IA/01639/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 28 May 2023

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

I U S (AFGHANISTAN)
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Michael Brooks of Counsel, instructed by Rodman
Pearce Solicitors Ltd

For the Respondent: Mr Stephen Whitwell, a Senior Home Office Presenting
Officer

Heard at Field House on 19 May 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) has been granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant.

Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. The appellant challenges the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 10 February 2021 to refuse him international protection as a refugee or leave to remain in the UK on human rights grounds. He is a citizen of Afghanistan.
2. For the reasons set out in this decision, I have come to the conclusion that the appellant's appeal should be allowed.

Procedural matters

3. **Mode of hearing.** The hearing today took place as a blended face to face and Microsoft Teams hearing. There were no technical difficulties. I am satisfied that all parties were in a quiet and private place and that the hearing was completed fairly, with the cooperation of both representatives.

Background

4. The appellant was born in 2003 and is now 20 years old. He came to the UK as an unaccompanied minor in 2016, aged 13, and has spent all of his teenage years here. He is an adult now, but still a young person.
5. The First-tier Judge considered and dismissed the appeal on 11 August 2021, just four days before the Taliban coup in Afghanistan. The factual matrix on which the appeal was then considered is no longer relevant: in particular, there is no internal relocation option as the Taliban now control the whole country.
6. Permission to appeal was granted on 7 December 2021 on the basis that 'in an otherwise detailed decision, it is unclear whether the judge decided that the appellant was now in contact with his family, or could be in contact if he so chose', alternatively that the First-tier Tribunal had not stated whether the finding that internal relocation to Kabul was reasonable rested on presumed access to family support in Kabul, and if not, whether such relocation would be reasonable, given that the appellant left the country as a child of 13 and had never lived in Kabul.
7. On 5 May 2022, I set aside the First-tier Tribunal decision by consent, the respondent conceding in her Rule 24 Reply that there was a material error of law in the First-tier Tribunal decision. I directed skeleton arguments and bundles to be served, not later than 7 days before the hearing. There has been no compliance with those directions on either side.
8. That is the basis on which this appeal came before the Upper Tribunal today for remaking.

Upper Tribunal hearing

9. The oral and written submissions at the hearing are a matter of record and need not be set out in full here. I had access to all of the documents before the First-tier Tribunal, and also to the respondent's April 2022 CPIN, *Afghanistan: Fear of the Taliban*, which all parties accept is the most recent information on circumstances in Afghanistan today. There is no up to date country guidance from the Upper Tribunal, and the EASO's 2021 country of origin information does not take account of the changes in Afghanistan since the Taliban coup in August 2021.

10. The appellant's account is that he came to the UK because the Taliban were trying to recruit him. At 6.12.1 of the CPIN, the respondent said this:

"6.12.1 CPIT was not able to find relevant information on Taliban recruitment, or the consequences of refusing to join the group, since their takeover of Kabul in August 2021.

..."

11. The information on Westernised Afghans, a group to which Mr Whitwell accepted that this applicant belongs, is at 2.4.9 and 6.10.3-6.10.4:

"2.4.9 The current evidence suggests that persons likely to be at risk of persecution, because they may be considered a threat or do not conform to the Taliban's strict interpretation of Sharia law, include but are not limited to: ...

- Persons who do not conform to, or are perceived to not conform to, strict cultural and religious expectations/mores, in particular women, and which may also include persons perceived as 'Westernised' after having spent time in the West, though no clear definition of what 'Westernised' means or entails is available.

6.10.2 On 23 August 2021, the New York Post cited an article by The Telegraph, which indicated Afghans were being beaten for wearing Western-style clothes:

'A group of young Afghan men claim Taliban fighters beat, whipped and threatened them at gunpoint for wearing jeans and other Western-style clothes in Kabul, the Telegraph reports.

'The young men said the insurgents accused them of disrespecting Islam with their clothing choices.

'A reporter with Afghan newspaper Etilaatroz also said he was beaten over the weekend for not wearing "Afghan clothes."

'Similar reports have emerged on social media of young Afghan men being targeted for wearing T-shirts.'

6.10.3 A video dated 9 September 2021 of clothes merchants in Kabul, posted by the South China Morning Post (SCMP) on 11 September, indicated a rise in the purchase of traditional clothing, whilst the sale of

jeans and t-shirts had fallen since the Taliban takeover. ...”

12. The appellant is clean shaven and wears Western-style clothing, and has been in the UK for all of his teenage years and his first two years of adulthood. For the respondent, Mr Whitwell accepts that he is likely to be regarded as Westernised on return to Afghanistan. Mr Whitwell invited me to allow the appeal outright. Mr Brooks also asked me to allow the appeal.
13. I agree. The appellant falls into one of the risk groups identified in the respondent’s CPIN. The proper outcome is for his appeal to be allowed on Refugee Convention grounds.

Notice of Decision

14. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law. I set aside the previous decision. I remake the decision by allowing the appeal.

Judith A J C Gleeson
Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 19 May 2023