



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/11285/2014

THE IMMIGRATION ACTS

Heard at Field House
On 9th September 2015

Determination Promulgated
On 30th September 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE BAGRAL

Between

MR JAMIL NAIM
(ANONYMITY ORDER NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms N Braganza, Counsel

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

REMITTAL AND REASONS

1. This appeal is not subject to an anonymity order by the First-tier Tribunal. I have not been asked to make one and see no public policy reason for doing so and none is made.

Background

2. The appellant is a citizen of Afghanistan born on 01 January 1997. He arrived in the UK in or about June 2011 and claimed asylum. That application was refused but, as

the appellant was a minor he was granted Discretionary Leave to Remain in the UK until he reached 17 ½ years of age. On 30th June 2014 the appellant applied for further leave to remain and that application was refused 01 December 2014.

3. The appellant appealed to the First-tier Tribunal. The appeal was heard by Judge Geraint Jones QC on 19 March 2015. In a decision promulgated on 23 March 2015, Judge Jones dismissed the appellant's appeal on asylum, humanitarian protection and human rights grounds. Judge Jones refused the appellant's renewed application for an adjournment pending an assessment of the appellant by the local mental health team and receipt of an expert's report, which at the date of hearing was only available in draft form. The judge went on to make an adverse credibility finding and rejected the appellant's claim.
4. The appellant sought permission to appeal challenging the judge's refusal to adjourn the appeal and the adverse credibility finding.
5. On 17 April 2015, the First-tier Tribunal (Judge Nicholson) granted the appellant permission to appeal.
6. Thus, the appeal came before me.
7. At the outset of the hearing, Mr Tufan, who represented the respondent, maintained the position adopted in the respondent's Rule 24 reply and accepted that the judge's decision could not stand. It was thus accepted that the judge had materially erred in law. In light of the respondent's concession, I announced at the hearing that I was satisfied that the judge's decision contained material errors of law for the reasons given in the grant of permission. Essentially it was accepted that shortly before the hearing the appellant had been referred to a mental health team for assessment. The appellant's representatives sought an adjournment of the appeal to enable the appellant to produce expert medical evidence and a finalised country expert report, which at the date of hearing existed only in draft form. Whilst the judge gave detailed reasons for refusing to adjourn the appeal, there was medical evidence indicating that the appellant may have mental health problems. He was thus arguably classed as a vulnerable adult for the purposes of the Joint Presidential Guidance Note No. 2 of 2010. The appellant's representatives provided reasons for the delay in obtaining the medical evidence, given the need for a mental health referral; and the adjournment requested was for a relatively short period. Given that the state of the appellant's mental health was relevant to the assessment of credibility, it was thus accepted that the judge ought to have adjourned in those circumstances and not to do so was arguably unfair.

Decision and Disposal

8. On that basis, and in light of the respondent's concession that the judge's decision contained material errors of law and cannot stand, I set aside that decision and remit

the appeal for a *de novo* rehearing before the First-tier Tribunal to be heard by a judge other than Judge G Jones QC.

Signed:

Dated:

Deputy Upper Tribunal Judge Bagral