



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

Appeal Number: PA/07072/2017

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 19<sup>th</sup> January 2018, typed  
corrected, signed and sent  
to Promulgation on 3<sup>rd</sup>  
February 2018.**

**Decision & Reasons  
Promulgated  
On 7<sup>th</sup> February 2018**

**Before**

**Upper Tribunal Judge Chalkley**

**Between**

**B P  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

*For the Appellant: Ms Radford*

*For the Respondent: Mr S Kotas, a Senior Home Office Presenting Officer*

**REASONS FOR FINDING AN ERROR OF LAW**

1. The appellant is a citizen of Afghanistan, who gives his date of birth as [ ] 1999. He claims to have arrived in the United Kingdom on 7<sup>th</sup> September 2011, at the age of 12 and later applied for asylum. The respondent refused that application in a letter dated 12<sup>th</sup> July 2017. The appellant

appealed to the First-tier Tribunal and his appeal was heard by First-tier Tribunal Judge Geraint Jones QC.

2. The judge recorded at paragraph 9 of his determination, that the appellant was from Kundoz province. In actual fact the appellant is from Helmand province. That was the first ground of challenge. There were a total six grounds of challenge in the lengthy grounds and permission was granted by Upper Tribunal Judge Allan, who was satisfied that the first two grounds raised arguable issues, but he did not rule out the other grounds. I do not need to deal with the other five grounds.
3. Ms Radford having made her submissions, Mr Kotas accepted that there did appear to be a material error of law in the judge's determination, in that he did appear to have misunderstood the appellant's claim. Because he misunderstood the basis of the appellant's claim he was not in a position to properly assess the risk to the appellant, were he to be returned to Kabul.
4. Both representatives agreed that the matter needed to be reheard afresh and clear fresh findings made. I set aside the determination of the First Tier Tribunal Judge.
5. Given the lengthy delays that will inevitably occur, were I to retain the appeal in the Upper Tribunal and hear it myself, I remit the appeal to be heard afresh by a judge other than First-tier Tribunal Judge Geraint Jones QC or First-tier Tribunal Judge Davidson. Two hours should be allowed for the hearing of the appeal. I am told no interpreter is required.

**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.

***Richard Chalkley***

**Upper Tribunal Judge Chalkley**