



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04242/2019

THE IMMIGRATION ACTS

Heard at Field House
On 10 January 2020

Decision & Reasons Promulgated
On 23 January 2020

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

A- N-
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms F Allen, Counsel instructed by Simman Solicitors

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

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Appellant. Breach of this order can be punished as a contempt of court. I make this order because the Appellant is an asylum seeker and is entitled to anonymity.
2. This is an appeal against the decision of the First-tier Tribunal on 27 September 2019 dismissing the Appellant's appeal against the decision of the Secretary of State on

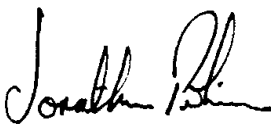
17 April 2019 refusing him asylum and/or humanitarian protection. The short point, and in my judgment a very good one, is that the First-tier Tribunal Judge has conspicuously failed to show that she was dealing with a child. The appellant was born in April 2002. It follows that he has not yet achieved his majority but nowhere in the decision is there any recognition of the fact that the judge was dealing with a person who was a minor when he appeared before her and was a much younger person, aged 14 and then 15 years, when he was interviewed by the Respondent.

3. I am very aware that young people vary enormously and some have considerable sophistication and maturity but there are proper reasons for taking extra care where young people are involved and there is no evidence that extra care was taken here. In fact the evidence points in the other direction because the judge says, unequivocally, at paragraph 37 of the Decision and Reasons, that the appellant was aged between 18 and 25 years when he was not. As I have already indicated, he has not yet achieved his 18th birthday.
4. I am also startled by paragraph 25 of the Decision and Reasons where the judge relied upon Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 to support and finding that it was a proper reason to disbelieve the appellant that he did not claim asylum when he was in Belgium. He was then a boy aged about 14 years and clearly under the guidance of his father. I doubt there is anything at all in the point taken by the judge. If there is it is not explained.
5. Mr Tufan, doing the best that could be expected of him, asked me to reflect on whether the appeal was capable of succeeding. I appreciate why he said that but this appellant has not had a proper hearing. The case has not been determined as it ought to have been in a way that reflected his minority and the decision on his claim for protection must be made against a proper sustainable factual matrix about his circumstances.

Notice of Decision

6. The First-tier Tribunal erred in law. I allow the appeal and set aside the decision. As it is set aside for a fundamental procedural irregularity I direct that the case be heard again in the First-tier Tribunal. No findings are preserved.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 17 January 2020