



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/13807/2011

THE IMMIGRATION ACTS

Heard at Bradford
On 06 September 2013

Determination Sent

Before

UPPER TRIBUNAL JUDGE
D E TAYLOR

Between

KHALID SANGARI

Appellant

And

SECRETARY OF STATE

Respondent

Representation:

For the Appellant: Mr Selway, Halliday Reeves sols

For the Respondent: Mrs Pettersen, HOPO

DECISION AND DIRECTIONS

1. This is the Appellants appeal against the decision of First-tier Tribunal Judge Kelly made following a hearing at Bradford on the 9 January 2013, dismissing his appeal against the Respondent's decision to refuse to grant him asylum.
2. The original grounds challenge the judge's decision on asylum grounds but Mr Selway told me that he was not pursuing them. The judge had made entirely sustainable findings on the facts and the Appellant would not be at risk on return.
3. Both parties agreed however that the judge had erred in failing to make any findings at all on the Article 8 claim, although it was specifically argued before him.
4. It was my initial view that the defect could be cured and the decision remade by the Upper Tribunal today. However Mr Selway said that the entire basis of the Appellant's claim had changed since the hearing before Judge Kelly. The Appellant was now in a stable relationship and had become a father.
5. Since none of the evidence has ever been considered before it was agreed that the proper course was for this appeal to be remitted back to Judge Kelly to complete his determination and make a decision with respect to Article 8, on the basis of the fresh evidence to be put before the Tribunal.
6. The judge erred in law in failing to determine one of the issues which was before him. To the extent that that issue remains outstanding, the decision is set aside.
7. This appeal will be heard at Bradford when the decision will be remade by Judge Kelly.

Signed

Date 12th September 2013

Judge of the Upper Tribunal