



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

Appeal Number:
AA/03088/2014

THE IMMIGRATION ACTS

**Heard at: Field House
On: 30th September 2014**

**Determination Sent
On 01 October 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

**MOHAMMAD KHAN
(NO ANONYMITY DIRECTION)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**For the Appellant:
Solicitors**

Mr Selway, Christian Goffried & Co

**For the Respondent: Ms Holmes, Senior Home Office Presenting
Officer**

DETERMINATION AND REASONS

1. The Appellant is a national of Afghanistan date of birth 1st January 1994. He appeals against the decision of the First-tier Tribunal (Judge Brenells) to dismiss his appeal against the Respondent's decision to remove him from the United Kingdom pursuant to s10 of the Immigration and Asylum Act 1999. That decision followed from

rejection of the Appellant's claim to international protection.

2. The Appellant was, on the findings of the First-tier Tribunal, only 15 when he arrived in the UK and claimed asylum. He gave an account of fleeing from members of his paternal family who killed his father in a land dispute, and from his maternal family who tricked him into giving up his right to said land. The Respondent did not believe a word of it.
3. The appeal came before Judge Brenells. In an extremely brief determination he makes the following findings:

"16. I do not find the Appellant to be a credible witness for the cumulative reasons set out below:

- 1. He was unable to say where his cousins he says he feared lived. He could not even tell me if they lived in the same village.*
- 2. He could not offer any credible explanation as to why he was not found at his maternal uncle's house when that house was in his own village and the relationship between them must have been known.*
- 3. He says his father was a wealthy landowner who owned land and houses which were rented to tenants yet at interview he could only name one of those tenants.*
- 4. His evidence was that from the age of eight he accompanied his father as the father drove around to inspect his land and yet he could not name any of the crops grown on the land he says his father owned.*
- 5. Despite being in hiding he claims that a meeting was arranged so that local tribal elders came to his uncle's house and witnessed the transfer of land ownership from the Appellant to his uncle.*
- 6. The claim that the Uncle would be willing to have the land transferred to him despite knowing that the Appellant's father had been killed a week ago because he owned land.*

17. Even if the Appellant was at risk, there is no evidence which establishes that if he is at risk from his cousins, Horvath level protection would not be available to him on return. There is no evidence which establishes that his cousins, if they exist and are a threat to him, would be able to locate him anywhere in the whole of Afghanistan on his return"

4. The grounds are that the First-tier Tribunal erred in failing to take into account the Appellant's young age in reaching the credibility findings and that there was a paucity of reasoning.
5. I find that the individual criticisms made of each of the reasons set out at paragraph 16(1)-(6) are probably well made. There is no particular reason for a child to know the names of his father's tenants, much less the names of the crops they grow. As a young child the

Appellant cannot be expected to understand the motivation of adults around him, nor everything that was happening at the meeting mentioned at (5). I consider it arguable that the Appellant is not in a position to understand why the Judge reached the conclusions he did. However, all of that is academic. That is because at paragraph 17 of the decision the Judge sets out alternative reasons why the appeal must be dismissed: there is no current risk, if there is the Appellant has not shown that there is not a sufficiency of protection, nor that he could not avail himself of internal flight. Although the Judge does not spell it out he is presumably here thinking of Kabul, that being the only part of Afghanistan currently considered durably safe enough to support internal relocation. The Appellant was aged 20 at the date of his appeal before Judge Brenells, and that finding was therefore open to the Tribunal. There is no challenge to it in the grounds, and it therefore remains intact. The determination may contain errors in respect of the credibility findings but these are not such that the decision must be set aside.

Decisions

6. The determination of the First-tier Tribunal does not contain an error such that it should be set aside. The decision is upheld.

Deputy Upper Tribunal Judge Bruce
30th September 2014