



**Upper Tribunal
(Immigration and Asylum Chamber)**
IA/33199/2013

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 6th October 2014

**Determination
Promulgated**

On 9th October 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

**AN
(Anonymity Direction Made)**

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Jacobs, instructed by Duncan Lewis Solicitors.

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

The Appellant

1. The appellant's appeal against a decision of the respondent to remove her and refuse her leave to remain and protection

under the European Convention was dismissed by First Tier Tribunal Judge Petherbridge on 10th May 2014. A renewed application for permission to appeal was granted by Upper Tribunal Judge Peter Lane on 14th August 2014.

2. At the hearing before me Mr Walker conceded that had the author of the rule 24 response had sight of the full bundle the challenge to the application may not have been made.
3. I find Judge Petherbridge erred in law by failing to address the question of Article 3 in particular with reference to the suicide risk. The risk of suicide was raised in the grounds of appeal to the First Tier Tribunal and the skeleton argument from counsel at the hearing and this should have been addressed, particularly in view of the detailed expert report submitted from Dr Wootton, Consultant Forensic Psychiatrist. The risk of suicide should also have been addressed in the assessment of Article 8.
4. This is a key issue within the appeal and the matter is returned to the First Tier Tribunal because of the nature and extent of the findings required in the light of **J v SSHD** [2005] EWCA Civ 629 and **Y & Anor (Sri Lanka) v SSHD** [2009] EWCA Civ 362.
5. I set aside the determination of Judge Petherbridge in its entirety. The matter should be returned to the First Tier Tribunal for a hearing de novo. The matter is listed to be heard in the First Tier Tribunal on 3rd March 2015.

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 because of the personal and sensitive nature of the information. 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.

Signed
2014

Date 6th October

Deputy Upper Tribunal Judge Rimington

Directions

The matter is listed for 3 hours before the First Tier Tribunal. The appellant's representatives should serve any further evidence at least 14 days prior to the substantive hearing date.

The matter is listed to be heard in the First Tier Tribunal on 3rd March 2015.