



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

Appeal Number: AA/12181/2010

THE IMMIGRATION ACTS

**Heard at Field House
On 1 June 2015**

**Determination
Promulgated
On 9 June 2015**

Before

**UPPER TRIBUNAL JUDGE JORDAN
UPPER TRIBUNAL JUDGE CANAVAN**

Between

**ALI TOFIQ MOHAMMAD
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr S. Kandola, Senior Home Office Presenting Officer

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

No anonymity order was made by the First-tier Tribunal. We find that no particular issues arise on the facts of this case that might infringe the appellant's protected human rights if the details were to become known publicly. For this reason no anonymity direction is made.

DECISION AND REASONS

Background

1. The appellant is a citizen of Iraq whose date of birth is 15 June 1991. He appealed against the respondent's decision dated 19 July 2010 to refuse to vary and extend his leave to remain in the UK and to grant asylum and to remove him by way of a direction made under section 47 of the Immigration, Asylum and Nationality Act 2006 ("IANA 2006").
2. The appeal was dismissed by First-tier Tribunal Judge Archer in a decision promulgated on 13 October 2010. The appellant did not seek to challenge the decision until an application for permission to appeal (and to extend time) was lodged on 22 May 2015. The grounds of appeal did not seek to challenge the substantive findings made by the First-tier Judge in relation to the protection claim but alleged that there was an error of law relating to the section 47 removal decision in light of the line of authorities in *Patel v SSHD* [2012] EWCA Civ 741, *Adamally and Jaferi (section 47 removal decisions: Tribunal Procedures)*[2012] UKUT 00414 and *Ahmadi v SSHD* [2013] EWCA Civ 512.
3. Permission to appeal was granted by First-tier Tribunal Judge Shimmin on the ground that it was arguable that there was a material error of law in relation to the section 47 removal decision. The judge accepted that there were special circumstances which make it unjust not to extend time.

Conclusions

4. There was no appearance by or on behalf of the appellant at the hearing. We were satisfied that he and his legal representatives were served with the notice of hearing to the last known addresses given on the application for permission to appeal. No explanation was given for his failure to attend. We were satisfied that we could proceed to decide the appeal in the absence of the appellant.
5. On behalf of the Secretary of State Mr Kandola accepted that the section 47 decision was one that was made prior to the amendments to the IANA 2006 on 08 May 2013. He acknowledged that there had been standing instructions to Home Office Presenting Officers to withdraw such decisions. As such he was content to withdraw the section 47 removal decision at the hearing. The Tribunal gave consent to this course of action and accordingly treated the section 47 decision as withdrawn under rule 17 of The Tribunal Procedure (Upper Tribunal) Rules 2008.
6. The appellant did not seek to challenge the substantive findings of the First-tier Tribunal, which dismissed his appeal on protection grounds. That part of the decision stands. Permission was granted on the sole ground that there may be an arguable error of law in relation to the removal decision. As a result of the section 47 decision being withdrawn we find that there is no longer a valid appeal before the Tribunal.

DECISION

There is no valid appeal before the Tribunal

Signed  Date 08 June 2015

Upper Tribunal Judge Canavan