



IAC-YW-LM-V1

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

Appeal Number: DA/00081/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 29<sup>th</sup> October 2015**

**Decision & Reasons Promulgated  
On 4<sup>th</sup> November 2015**

**Before**

**UPPER TRIBUNAL JUDGE REEDS**

**Between**

**EA  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Loughran, Counsel instructed on behalf of Wilson Solicitors LLP

For the Respondent: Mr T Wilding, Senior Presenting Officer

**DECISION AND DIRECTIONS**

1. The Tribunal makes an anonymity direction pursuant to Rule 14 of the Upper Tribunal (Procedure Rules) 2008 (as amended) in view of the Appellant's mental health. Unless the Upper Tribunal or a court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the Appellant. This prohibition applies to, amongst others, all parties and their representatives.

The background:

2. In a determination promulgated on the 16th September 2015 I set aside the decision of the First-tier Tribunal for the reasons set out.
3. It was not possible to continue to remake the decision as Mr Lay informed the Tribunal that there were a number of outstanding matters in relation to the Appellant. There were no further instructions at the present time and no updated medical evidence, however, there was a letter making reference to him having been transferred from prison to a secure unit. Furthermore, it appears that there were further charges outstanding against the Appellant but no details were provided. In those circumstances, the case was set down for a further case management hearing when further directions shall be given concerning the remaking of the appeal.
4. At the hearing today there was no further material available and there were no further details of the pending criminal charges or any medical evidence. That evidence would not be available until the 5<sup>th</sup> January 2016. Mr Wilding accepted that the case facts were different and that the refusal letter even before the First-tier Tribunal had been overtaken by the medical circumstances of the applicant and that the respondent would be likely to issue a supplementary refusal letter.
5. Ms Loughran invited the Tribunal to determine the appeal with a fresh oral hearing by way of remittal to the First-tier Tribunal. Due to the nature of the error of law, the Tribunal will be required to consider new evidence on a number of issues and for findings of fact to be made on all the issues raised including the documentary evidence and medical evidence. In that context, I am satisfied that the appropriate course is for the appeal to be remitted as set out above and for there to be an assessment of the evidence. There have been reasons given as to why this course should be adopted, and having given particular regard to the overriding objective of the efficient disposal of appeals and taking into account that there are issues of fact that are central to this appeal that require determination, I have reached the conclusion that the appeal should be remitted to the First-tier Tribunal.
6. Therefore the decision of the First-tier Tribunal shall be set aside, none of the findings shall stand and the case is to be remitted to the First-tier Tribunal for a hearing in accordance with Section 12(2)(b) of the Tribunals, Court and Enforcement Act and paragraph 7.2 of the Practice Statement of 10<sup>th</sup> February 2010 (as amended).
7. There shall be Case Management Hearing listed before the First-tier Tribunal after the 11<sup>th</sup> January 2016.

**Notice of Decision**

The determination of the First-tier Tribunal contains an error of law and is set aside; none of the findings shall stand and the case is to be remitted to the First-tier Tribunal for a hearing in accordance with Section 12(2)(b) of the Tribunals, Court and Enforcement Act and paragraph 7.2 of the Practice Statement of 10<sup>th</sup> February 2010 (as amended).

**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. No report of these proceedings shall directly or indirectly identify him or any member of his 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

Date 30/10/2015

Upper Tribunal Judge Reeds