



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

Appeal Number: PA/00271/2015

THE IMMIGRATION ACTS

**Field House
1 October 2015**

**Decision & Reasons Promulgated
8 October 2015**

Before

UPPER TRIBUNAL JUDGE JORDAN

Between

Suman Banik

Appellant

and

The Secretary Of State For The Home Department

Respondent

DECISION AND REASONS

1. In *The Lord Chancellor v Detention Action* [2015] EWCA Civ 840, the Master of the Rolls (with whom Briggs and Bean LJ agreed) said:
 1. For the reasons that I have given, the FTR are systemically unfair and unjust. The appeal must, therefore, be dismissed. The object of the SSHD in placing asylum appeals in the fast track is the entirely laudable one of dealing with them quickly. This is not because she considers that they are all hopeless cases. Far from it. Although many of the appeals are dismissed, many succeed. They are placed in the fast track so that they can be handled quickly and efficiently. But the consequences for an asylum seeker of mistakes in the process are potentially disastrous. That is why section 22(4) of the 2007 Act recognises that justice and fairness should not be sacrificed on the altar of speed and efficiency. As I have explained, the FTR do not strike the correct

balance between (i) speed and efficiency and (ii) fairness and justice. It is too heavily weighted in favour of the former and needs to be adjusted. Precisely how that is done is a matter for the TPC and Parliament.

2. This prompted the President of the First-tier Tribunal to set aside the decision of the First-tier Tribunal and to direct that the appellant's appeal be re-determined again by a different First-tier Tribunal Judge.
3. On 18 August 2015, Upper Tribunal Judge Goldstein gave the parties a memorandum and directions to the effect that the litigation was now academic. He stated that the appeal in the Upper Tribunal would be dismissed unless either party wrote to the Tribunal within 7 days of the sending out of memorandum and directions proposing a different course. The directions were sent out on 19 August 2015.
4. Although it is undated, there appears to be a response on the file from the appellant which may be a response to Judge Goldstein's directions. In it, the appellant expresses his wish to have his asylum appeal heard. This is, of course, precisely the effect of the decision of Mr Clements in setting aside the original determination of the appellant's appeal.
5. Accordingly, I am satisfied that neither the appellant nor the respondent (who has not voiced a contrary view) objects to the order setting aside the first determination and for the appeal being listed for hearing in the First-tier Tribunal.

RULING

The setting aside of the determination of the First-tier Tribunal Judge means that there is no longer an appeal before the Upper Tribunal. In this sense, the appeal stands dismissed.

ANDREW JORDAN
JUDGE OF THE UPPER TRIBUNAL