



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

Appeal Number: AA103222012

THE IMMIGRATION ACTS

**Heard at Glasgow
on 7 June 2016**

**Decision & Reasons
Promulgated
On 9 June 2016**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

[E E]

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr B Price, of Latta & Co, Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant identifies himself as a Bidoon from Kuwait, born on [] 1988. The respondent rejected his asylum claim by letter dated 9 November 2012, relying on a *Sprakab* report and on *RB (Somalia)*: [2010] UKUT 329 (IAC) and [2012] EWCA Civ 277.
2. Judge David C Clapham dismissed the appellant's appeal to the First-tier Tribunal by determination promulgated on 4 January 2013.
3. Both the FtT and the Upper Tribunal refused permission to appeal.
4. The appellant raised a petition for judicial review in the Court of Session, P834/13. The parties entered into a joint minute which led to an interlocutor of 21 November 2014 reducing the decision of the UT to refuse permission to appeal, and remitting the matter back to the UT for further consideration.

5. While full details and a copy of the joint minute have not been provided to the UT, the procedure in the Court of Session appears to have taken place in light of *SSHD v MN and KY* [2014] UKSC 30, judgment published on 21 May 2014.
6. The reason for delay since then is that neither party advised the UT of the foregoing developments until a letter was received from the appellant's current solicitors dated 11 April 2016 (or perhaps 19 February 2016; no copy of that earlier letter is on the file.)
7. The following further steps are as agreed between the parties at the case management review hearing on 7 June 2016.
8. The appellant is granted **permission to appeal to the Upper Tribunal**.
9. The decision of the FtT is **set aside**, on the basis of errors of law which emerge in the light of *MN and KY*.
10. The decision of the FtT stands only as a record of what was advanced in those proceedings.
11. The nature of the case is such that it is appropriate in terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to **remit the case to the FtT** for an entirely fresh hearing.
12. The SSHD is **directed** to file with the FtT by 21 June 2016 an updated statement of her reasons for refusing the appellant's asylum claim.
13. The appellant is **directed** to file with the FtT by 5 July 2016 (a) updated grounds of appeal, including any grounds under Article 8 of the ECHR on which he now seeks to rely, (b) a skeleton argument, and (c) any additional evidence on which he seeks to rely, with the necessary application for that evidence to be admitted.
14. The member(s) of the FtT chosen to consider the case are not to include Judge David C Clapham.
15. No anonymity order has been requested or made.



8 June 2016
Upper Tribunal Judge Macleman