



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/02683/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 27 July 2017

Promulgated

On 08 August 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE LATTER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**RAHMATI ABDOLLAH
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr E Tufan, Home Office Presenting Officer

For the Respondent: No appearance

DECISION AND REASONS

1. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal dismissing an appeal by the applicant on asylum and humanitarian protection grounds but allowing it, in form at least, on human rights (article 8) grounds. In this decision, I will refer to the parties as they were before the First-tier Tribunal, the applicant as the appellant and the Secretary of State as the respondent.
2. The appellant is a citizen of Afghanistan born on 1 January 1993. He arrived in the UK on 3 September 2016 and applied for asylum. His application was refused on 2 March 2017 for the reasons set out in the respondent's detailed reasons for refusal. He appealed to the First-tier

Tribunal and his appeal was heard on 19 April 2017. The judge did not accept that the appellant would be at real risk of persecution or serious harm on return to Afghanistan for the reasons set out fully in his decision. He went on to consider article 8 in [69] - [70] and concluded that any interference with the appellant's private and family life would not be disproportionate to the need to maintain fair and effective immigration control, saying in terms that for these reasons the appeal was dismissed on article 8 grounds.

3. However, in the formal notice of decision at the end of his written decision the judge, whilst confirming that the appeal was dismissed on asylum and humanitarian protection grounds, said that the appeal was allowed on human rights grounds.
4. The respondent was granted permission to appeal on the basis that, although the judge appeared to have made a slip, it was not the sort of slip that could be corrected by operation of the First-tier Tribunal's slip rule.
5. At the hearing before me there was no appearance by or on behalf of the appellant. His representatives have written to the Upper Tribunal indicating that they are no longer acting. I am satisfied that the notice of hearing was properly served both on the appellant and his representatives and that the proper course is for the hearing to proceed.
6. In the light of the Upper Tribunal decision in Katsonga ("Slip Rule"; FtT's general powers) [2016] UKUT 228, the slip rule in Rule 31 of the First-tier Tribunal Procedure Rules cannot be used to reverse the effect of a decision. In these circumstances, the error can only be corrected on appeal. I am satisfied that it was the intention of the judge to dismiss the appeal on human rights grounds: this is crystal clear from what he has said in [69] - [70]. I am equally satisfied that the decision allowing the human rights appeal was simply a clerical error. To this extent the judge erred in law and the proper course is for the human rights decision to be set aside and for a decision to be substituted dismissing the appeal on human rights grounds.

Decision

7. The First-tier Tribunal erred in law. The decision is set aside in relation to human rights grounds. I re-make the decision dismissing the appeal on human rights grounds in addition to confirming that it is dismissed on asylum and humanitarian protection grounds. No anonymity direction was made by the First-tier Tribunal.

Signed H J E Latter

Date: 7 August 2017

Deputy Upper Tribunal Judge Letter