



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/05310/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
On 3<sup>rd</sup> November 2017

Decision & Reasons Promulgated  
On 10<sup>th</sup> November 2017

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MR A A  
(ANONYMITY DIRECTION MADE)

Respondent

**Representation:**

For the Appellant: Mr P Nath (Senior Home Office Presenting Officer)

For the Respondent: Ms G S Peterson (instructed by CK, Solicitors)

**NOTICE OF DECISION**

1. This is an appeal to the Upper Tribunal by the Secretary of State, with permission, in relation to a Decision and Reasons of the First-tier Tribunal (Judge Fletcher-Hill) promulgated on 18th May 2017 by which she allowed the appeal against the refusal of a protection claim.
2. For the sake of clarity I will continue to refer to AA as the Appellant and the Secretary of State as the Respondent in this decision.

3. The Appellant was born on [ ] 2000 and is a citizen of Afghanistan. He is therefore of minor. He arrived in the UK in November 2015 having been discovered inside a lorry at Dover. He claimed asylum which was refused on 11th May 2016. In accordance with her policy however the Secretary of State granted him discretionary leave until 1st July 2017.
4. The Appellant claimed that he fled Afghanistan as a young teenager after several boys from the Madrassa in his village had been taken, in June 2014, by the Taliban to use as suicide bombers, which they had been trained for at the Madrassa. He claimed that he would be risk of recruitment by the Taliban, who had murdered his father. The Secretary of State did not accept that the Taliban had murdered his father nor do they accept the Appellant was at risk. She did not accept his claim to be credible.
5. The Judge heard evidence from the Appellant. He confirmed that photographs that had been produced were of his home that had caught fire after it was hit by shelling. He said that he had in the past spoken to his mother in Afghanistan but could not now do so as she no longer had a phone and he did not know where she was.
6. He confirmed his father had been killed by the Taliban when he was a small child and it was his mother who told him about it.
7. The Judge accepted the Appellant as credible; that he was at risk of forced recruitment as a suicide bomber which was why he fled the country. She went on to consider whether he could safely relocate to Kabul and found he could not reasonably be expected to do so. The appeal was allowed.
8. The Secretary of State's grounds, upon which permission to appeal was granted asserted that the Judge had failed to give adequate reasons and in particular had failed to say why the Taliban in Kabul would have any residual ongoing interest in this particular Appellant. They asserted the Judge, in considering internal relocation made no findings as to whether the Appellant was in contact with his family. Further that in assessing general credibility failed to make any findings on the core assertion of the Respondent, namely that the Appellant had an older brother who apparently had not been targeted it was implausible the Appellant would be targeted but not his older brother.
9. It is further asserted that the Judge failed to consider, as required by section 8, the Appellant's failure to claim asylum in another safe country.
10. Mr Nath relied on the grounds; that the short determination was lacking in detail. He referred to paragraph 7.20 arguing that the analysis was inadequate and reasons absent. He referred to the 2<sup>nd</sup> ground regarding the Appellant's older brother and that it was argued by the Secretary of State that is implausible the Appellant would be targeted but not his older brother and there is no reference to that at all in the determination.

11. Miss Peterson argued that, albeit short the determination was adequate. She referred to the submissions made by her colleague before the First-tier Tribunal, which been recorded in the determination and argued that the findings were clearly based on those submissions. She made various other submissions which would have had considerable force had they been made in connection with the original appeal but unfortunately do not assist in saving this Decision and Reasons. The Judge commences her findings by saying that she finds the Appellant to be credible but does not give any reasons for so finding. Furthermore she does not address the Secretary of State's reasons for refusing the claim, in particular the reference to the Appellant's brother. She also makes no findings in relation to whether the Appellant was in contact with his family and in assessing internal relocation to Kabul finds it would be unreasonable without giving any reasons why.
12. Overall the Decision and Reasons is woefully lacking in analysis and reasoned findings. That is not to say necessarily that the Appellant's case is a hopeless one. However, the Secretary of State is, as is an Appellant, entitled to know the reasons why she has lost. That cannot be ascertained from this Decision and Reasons. Therefore, the Decision and Reasons must be set aside in its entirety and given the nature and number of findings which need to be made I remit it to the First-tier Tribunal for a full rehearing before a different Judge.

### **Decision**

The Secretary of State's appeal to the Upper Tribunal is allowed to the extent that the First-tier Tribunal's Decision and Reasons is set aside and the matter remitted to the First-tier Tribunal for a full rehearing.

The first-tier Tribunal having made an anonymity direction I direct that is continued

### **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 their family. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 8<sup>th</sup> November 2017

Upper Tribunal Judge Martin