



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

Appeal Number: PA054252016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 7 June 2017**

**Decision & Reasons  
Promulgated  
On 27 June 2017**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM**

**Between**

**[ B I ]**

**~~(ANONYMITY DIRECTION NOT MADE)~~**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr P Turner, Counsel instructed by Morden Solicitors  
For the Respondent: Mr P Duffy, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Bangladesh and his date of birth is [ ] 1977. He made a claim for asylum which was refused by the Secretary of State on 13 May 2016. He appealed against that decision. On 24 June 2016 First-tier Tribunal Judge Doyle dismissed the appeal on the basis that the appellant failed to comply with a direction of the Tribunal. The judge

concluded that the Tribunal issued directions on 26 February 2016 asking the appellant to supply specific and complete grounds of appeal not later than 8 April 2016, but the appellant failed to comply and there were no grounds of appeal before Judge Doyle. Judge Doyle's decision was promulgated on 28 June 2016.

2. Permission was granted by Judge of the First-tier Tribunal Adio on 26 April 2017. The grounds, in a nutshell, are that the appellant did not receive the directions referred to by Judge Doyle. He asserted that he faxed the grounds of appeal to the Tribunal, on 13 June 2016, following directions that were sent to him from the Tribunal on 7 June 2016 requiring the appellant to serve and file grounds by 14 June 2016.
3. In support of the application the appellant has served a statement from the fee earner at the firm of solicitors representing him at the relevant time and his evidence is that the grounds of appeal were faxed to the Tribunal on 13 June, in compliance with the direction, and therefore should have been before the Tribunal. Mr Duffy helpfully conceded that if the facts as presented by the appellant are correct there is a clear error of law because the appellant has not had a fair hearing.
4. I conclude that there has been a material error of law in this case. Judge Doyle made reference to a notice having been sent to the appellant in February 2016 which does not fit into the timeline because there were no proceedings at this time (the respondent's decision is dated 13 May 2016), therefore there could not have been directions issued at that time. Although the grounds of appeal were not before Judge Doyle, it appears that they were either faxed successfully to the Tribunal and for one reason or another not linked to the file, or there has been a genuine error in sending the document by way of fax, but either way there has been a procedural irregularity which has led to unfairness. I set aside the decision of Judge Doyle to dismiss the appellant's appeal. Both parties agreed that, in the light of the nature of the error, the matter should be remitted to the First-tier Tribunal for a fresh hearing. I agreed with this.

No anonymity direction is made.

Signed Joanna McWilliam

Date 22 June 2017

Upper Tribunal Judge McWilliam