



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

Appeal Number: PA/05602/2018

**THE IMMIGRATION ACTS**

**Heard at Birmingham Civil Justice Centre**

**Decision & Reasons  
Promulgated**

**On: 23 November 2018**

**On 18 December 2018**

**Before**

**UPPER TRIBUNAL JUDGE O'CONNOR**

**Between**

**MS  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr S Vokes, instructed by Central England Law Centre

For the Respondent: Mr D Mills, Senior Presenting Officer

## **Anonymity Order**

Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders, and given that the appellant is a minor and that the appeal relates to a claim for international protection, I consider it appropriate to make an order in the following terms:

**Unless and until a tribunal or court directs otherwise, the Appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify the appellant. This direction applies to, amongst others, both the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings.**

## **DECISION AND REASONS**

1. The Appellant is a national of Afghanistan, born in August 2004. Having arrived in the United Kingdom in April 2016 (aged 12) the appellant claimed asylum approximately 2 months later. This application was refused by the SSHD on 18 April 2018.
2. The appellant appealed this decision to the First-tier Tribunal. The appeal was heard in the appellant's absence on the 31 May 2018 by First-tier Tribunal Judge Fox and dismissed on all grounds in a decision promulgated on 6 July 2018.
3. The FtT rejected the truth of the appellant's evidence, *inter alia*, placing reliance on inconsistencies and treating adversely the fact of appellant's failure to claim asylum en route to the UK.
4. On 6 September 2018, First-tier Tribunal Judge Keane granted the appellant permission to appeal to the Upper Tribunal - observing that the FtT had only referred to the appellant's age in the opening paragraph of its judgment and concluding that it was arguable that the FtT had failed to take proper account of the appellant's age when undertaking its credibility assessment. It was further found to be arguable that the FtT had failed to give adequate consideration to expert evidence relied upon by the appellant.
5. At the outset of the hearing before me on the 23 November Mr Mills conceded that (i) the FtT's decision contained significant errors of law of the type identified in the grant of permission, (ii) that the FtT's decision should, as a consequence, be set aside; and, (iii) that any rehearing of the appeal should be *de novo* and undertaken by the FtT.
6. Mr Vokes agreed with the SSHD's position.
7. I also concur. The FtT's decision is manifestly inadequate in almost every respect. I do not intend to waste any further judicial ink identifying with


greater precision than that set above why I conclude this to be so. For the reasons set out in the grant of permission, I set aside the FtT's decision. The appeal must be determined afresh. The scale of the necessary fact finding is such that it is appropriate for this to be carried out by the FtT. I, therefore, remit the appeal to the FtT for this purpose.

**Decision**

The decision of the FtT is set aside,

The appeal is remitted to the FtT to be determined afresh.

Signed:

A handwritten signature in black ink, appearing to read 'M. O'Connor', written over a faint, illegible stamp or watermark.

Upper Tribunal Judge O'Connor  
Date: 23 November 2018