



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

Appeal Number: PA/06178/2018

**THE IMMIGRATION ACTS**

**Heard at Manchester Civil Justice Centre**

**On 6 November 2018**

**Decision & Reasons  
Promulgated**

**On 13 November 2018**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**AHMED ALI SAEED KUZAM  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Not present or represented

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Ahmed Ali Saeed Kuzam, was born on 1 January 1984 and is a male citizen of Yemen. By a decision dated 26 April 2018, the Secretary of State refused the appellant international protection. He appealed to the First-tier Tribunal (Judge Foudy) which, in a decision promulgated on 28 July 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant did not attend the Upper Tribunal initial hearing at the Civil Justice Centre, Manchester on 6 November 2018. The file indicates that he was served on 5 October 2018 at his last known address in Bolton, Lancashire. There was nothing on the file to indicate that the notice of hearing failed to reach the appellant. The appellant was previously represented but he no longer has a representative. I am satisfied that the appellant has not given any/any satisfactory reason for his failure to attend and, in those circumstances, I proceeded with the hearing in the absence of the appellant.
3. It is fair to say that the judge found the appellant's evidence at the First-tier Tribunal to be confusing. First, the appellant's claim that he was from Rada'a contradicted by the documents in the appellant's second bundle (which indicated he came from Rida) whilst his claim that Rada was in the north of Yemen was not supported by objective material which, as the judge noted, indicated that "Rada is a fortified town in the central south of Yemen in the governorate of Al Bayda." The judge concluded [19] because the appellant does not come from North Yemen he would be able to return to his home area.
4. The manuscript grounds of appeal were rejected by Judge Keane who found (as do I) that the grounds are "no more than a disagreement with the findings of the judge." However, Judge Keane went on (because the appellant was not represented) to consider whether there any other arguable errors of law in the decision. Judge Keane appears to have been concerned that the judge "had regard to her own preconceptions as to what constituted reasonable conduct" considering the credibility of the appellant's account. I have to say I am a loss to understand exactly what that may be intended to mean. In any event, Judge Keane appears to have failed to take adequate notice of the guidance of the Upper Tribunal in *AZ (error of law: jurisdiction; PTA practice) Iran* [2018] UKUT 00245 (IAC);

(3) Permission to appeal to the Upper Tribunal should be granted on a ground that was not advanced by an applicant for permission, only if:

(a) the judge is satisfied that the ground he or she has identified is one which has a strong prospect of success: (i) for the original appellant; or (ii) for the Secretary of State, where the ground relates to a decision which, if undisturbed, would breach the United Kingdom's international Treaty obligations; or (b) (possibly) the ground relates to an issue of general importance, which the Upper Tribunal needs to address.

5. I am well-aware that the appellant was not represented at the time he submitted his grounds of appeal to the Upper Tribunal. However, Judge Keane has not clearly indicated that he considered that the additional ground of appeal, which had not been argued but which he identified, stood a strong prospect of success and, if so, why. I cannot see that the point raised by judge Keane is 'obvious' (see *R v Secretary of State for the Home Department ex parte Robinson* [1998] QB 929). Given that the First-tier Tribunal Judge struggled to find any coherence in the appellant's

contradictory evidence and that the appellant appeared to claim that he came from a region of Yemen which was not, as the judge noted, “where the appellant claims it to be”, I cannot see that Judge Foudy arguably erred in law by concluding that the appellant had failed to discharge the burden of proving his case to the necessary standard. The First-tier Tribunal decision is, in my opinion, legally sound and the appeal is dismissed.

6. In the circumstances, this appeal is dismissed.

**Notice of Decision**

7. This appeal is dismissed.

8. No anonymity direction is made.

Signed

Date 7 November 2018

Upper Tribunal Judge Lane

**TO THE RESPONDENT**  
**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 7 November 2018

Upper Tribunal Judge Lane