



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

Appeal Number: PA/07053/2017

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 18 April 2018**

**Decision & Reasons  
Promulgated  
On 20 April 2018**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**DAUD [S]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Fazli, Sohaid Fatimi Solicitors

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Daud [S], was born on [ ] 1998 and is a male citizen of Afghanistan. He applied for international protection but his application was refused by a decision of the respondent dated 14 July 2017. He appealed to the First-tier Tribunal (Judge Buckwell) which, in a decision promulgated on 13 September 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I find that the decision of the First-tier Tribunal should be set aside. My reasons for reaching that decision are as follows. First, I find that the

judge has misunderstood the evidence. The judge properly observes at [56] that the credibility of the appellant was “the critical aspect” of the appeal. He rejected that credibility, finding that the appellant was wholly unreliable as a witness. At [58], the judge noted that the appellant had given “differing accounts in relation to his family and their claimed death or disappearance”. The judge wrote that,

“The appellant of course stated at the hearing that his father had sold their sheep to raise funds for him to be brought out of Afghanistan by an agent. However, at least in one version of the account about the sale of the sheep, the appellant’s father would in fact have been dead (as the appellant believed) before he left Afghanistan and before the claimed sale of sheep would have taken place.”

At the initial hearing in the Upper Tribunal, it was not possible to identify any part of the appellant’s written evidence or the record of the hearing kept by the judge or the representatives of the appellant’s oral evidence which indicated that the appellant had claimed that his father had sold the sheep. Whilst some considerable confusion appears to have arisen, not least in the appellant’s own mind, as to whether or not his parents were alive or dead, the particular anomaly upon which the judge relied (that a dead man could not sell sheep) was not present at all in the appellant’s evidence. On any reading of the decision, the judge attached considerable weight to what he thought was an anomaly in the evidence; indeed, he considered that he had rendered the appellant’s account “absurd” [59]. The appellant is entitled to a rational decision based on the evidence which he has actually adduced not on a misreading of the evidence. In the circumstances, the judge has erred in law such that the decision cannot stand.

3. Secondly, the judge has not made any findings regarding the documentary evidence upon which the appellant relied. The judge refers to the evidence at [14] and goes on to note at [40] that the Presenting Officer submitted that the evidence should be considered on *Tanveer Ahmed* principles (*Tanveer Ahmed* [2002] UKIAT 402). Whilst the judge records that he was “asked to accord [the documentary evidence] very low evidential weight” at no point in his analysis does he refer again to the documentary evidence. He remains entirely unclear as to what weight, if any, he has attributed to the documentary evidence.
4. In the circumstances, the decision of the First-tier Tribunal is set aside. The findings of fact are set aside. There will need to be a new fact-finding exercise which is better conducted in the First-tier Tribunal to which this appeal is now returned to remake the decision. At the Upper Tribunal hearing, the appellant’s representative went into some detail regarding the appellant’s knowledge at various points in time regarding the death of his parents. In particular, it is clear that the evidence which the appellant gave at his asylum interview regarding his parents was, for whatever reason, not accurate. No doubt this aspect of the case and the explanations given by the appellant will become the subject for scrutiny at the next hearing before the First-tier Tribunal.

**Notice of Decision**

**The decision of the First-tier Tribunal promulgated on 13 September 2017 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Judge Buckwell) for that Tribunal to remake the decision.**

**No anonymity direction is made.**

Signed

Date 18 April 2018

Upper Tribunal Judge Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 18 APRIL 2018

Upper Tribunal Judge Lane