



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

Appeal Number: PA/07294/2017

**THE IMMIGRATION ACTS**

**Field House  
On 6<sup>th</sup> March 2018**

**Decision & Reasons  
Promulgated  
On 7<sup>th</sup> March 2018**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**F M K**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT  
(ANONYMITY DIRECTION MADE)**

Respondent

**CONSENT ORDER**

1. The Appellant, a Kenyan national appealed the Secretary of State's decision to refuse her protection claim. In a Decision and Reasons promulgated on 11<sup>th</sup> September 2017 the First-tier Tribunal (Judge Shiner) dismissed the appeal. The decision was made on the papers at the request of both parties.
2. The Appellant sought and was granted permission to appeal to the Upper Tribunal.

3. The Secretary of State has accepted, by email dated 2<sup>nd</sup> February 2018, that she ought to have provided the Rule 35 report to the Tribunal and her failure to do so rendered the proceedings unfair. That unfairness amounted to a material error of law, albeit through no fault of the First-tier Tribunal Judge.
4. The Secretary of State accepts on that basis that the Decision and Reasons should be set aside and the matter remitted to the First-tier Tribunal for a rehearing on all issues.
5. The Appellant's representatives have indicated that they are content with that.
6. Rule 39 of the Tribunal Procedure Rules (Upper Tribunal) 2008 permits the Tribunal to make a consent order disposing of the proceedings if it considers it appropriate and the parties have agreed. Rule 39(2) permits this to be done without a hearing.

### **Notice of Decision**

7. The Appellant's appeal to the Upper Tribunal is allowed to the extent that the decision is set aside and the matter is remitted to the First-tier Tribunal for a full rehearing on all matters.

### **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. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 6<sup>th</sup> March 2018

Upper Tribunal Judge Martin