



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

Appeal Number: DA/00361/2018

THE IMMIGRATION ACTS

Heard at Field House

On the 24th January 2019

**Decision & Reasons
Promulgated**

On the 30th January 2019

Before

**LORD BECKETT
SITTING AS AN UPPER TRIBUNAL JUDGE
UPPER TRIBUNAL JUDGE REEDS**

Between

**YK
(ANONYMITY DIRECTION MADE)**

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss A. Evans, instructed on behalf of the Appellant

For the Respondent: Mr Bramble, Senior Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge, promulgated on the 9th November 2018 dismissing his appeal against the decision to refuse his protection and human rights claim in the context of his deportation. Permission to appeal was granted on the 28th November 2018.

2. **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**
3. 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. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.
4. The respondent has subsequently responded to the grounds of appeal, conceding that the decision of the First-tier Tribunal involved the making of an error of law capable of affecting the outcome, and that it should be remitted to the First-tier Tribunal to be remade in its entirety. Having considered the respondent's concession, we agree with it.
5. In the circumstances, we are satisfied that the decision of the First-tier Tribunal involved the making of an error of law and we set it aside. As the errors involved a failure properly to adjourn the case, we are satisfied that none of the findings of fact could be sustained; the decision will need to be remade in its entirety.
6. We have given careful consideration to the Joint Practice Statement of the First-tier Tribunal and Upper Tribunal concerning the disposal of appeals in this Tribunal. That reads as follows:

"[7.2]The Upper Tribunal is likely on each such occasion to proceed to re-make the decision, instead of remitting the case to the First-tier Tribunal, unless the Upper Tribunal is satisfied that:-

 - (a) the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for that party's case to be put to and considered by the First-tier Tribunal; or
 - (b) the nature or extent of any judicial fact finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective in rule 2, it is appropriate to remit the case to the First-tier Tribunal."
7. Thus it is appropriate to remit it to the First-tier Tribunal for a fresh decision on all matters. We have made an anonymity direction at this stage of the proceedings but the issue can be re-visited by the parties when before the First-tier Tribunal.

Notice of Decision

8. The decision of the First-tier Tribunal involved the making of an error on a point of law and is therefore set aside. It is remitted to the First-tier Tribunal for a fresh hearing.

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. 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 24/1/2019

Upper Tribunal Judge Reeds