



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

Appeal Number: PA/04942/2017

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 1 October 2018**

**Decision & Reasons  
Promulgated  
On 24 January 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**ABDUL [H]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Tettey

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

**DECISION AND REASONS**

1. The appellant, Abdul [H], claims to have been born on 1 January 1998. He appealed to the First-tier Tribunal (Resident Judge Zucker) against a decision of the Secretary of State refusing him international protection. The First-tier Tribunal, in a decision delivered orally on 17 November 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. There are, in essence, four grounds of appeal. Mr Tettey, who appeared for the appellant, did not, in his oral submissions, pursue the first two

grounds of appeal. The challenge to Judge Zucker's decision solely on the basis that he gave an *ex tempore*, judgment in court is, by any reckoning, wholly unfounded. There was nothing to prevent the judge from giving such a judgment and the appellant cannot conceivably have been disadvantaged. Secondly, the appellant asserts that the judge prevented the representative of the appellant from taking notes during the hearing. Judge Appleyard, who granted permission, indicated that a witness statement would be expected in support of this ground of appeal. No such statement has been produced. However, I have read Judge Zucker's own note on the grounds of appeal which is dated 2 August 2018. Mr Tetley does not challenge Judge Zucker's statement that he told supporters of the appellant at the hearing that they should not take notes but that he did not prevent the appellant's representative from taking notes.

3. Thirdly, the appellant asserts that the judge failed to give adequate reasons for finding that the appellant, who is still a young man whatever his date of birth, could safely return to Kabul. In respect of this ground, I was assisted by Mr McVeety, Senior Home Office Presenting Officer who appeared for the Secretary of State before the Upper Tribunal. He told me that the Secretary of State took the view that this ground had been made out. Judge Zucker, following his comprehensive rejection of the appellant's credibility, stated at [16] that he was "not satisfied the appellant did not have the support sufficient to give him protection necessary were he to be returned to Kabul and I am not satisfied notwithstanding the background material to which I was taken by Mr Muksud ... that the appellant is entitled without more to humanitarian protection". Both parties agree that this analysis, notwithstanding the rejection of the appellant's credibility, is lacking in both depth and detail. I am persuaded that the Judge needed to provide a more cogent analysis; as it stands, the judge's conclusion is more assertion than explanation. Accordingly, I set aside the decision of the First-tier Tribunal.
4. I have considered whether it is appropriate to set aside or retain the findings on credibility made by Judge Zucker. The credibility of the appellant will have to be looked at again in the context of whether it is safe for the appellant to return to Kabul. I have concluded that it is appropriate to set aside the decision in its entirety, including the findings on credibility.

### **Notice of Decision**

5. The decision of the First-tier Tribunal which was delivered orally on 17 November 2017 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Resident Judge Zucker) for that Tribunal to re-make the decision.
6. No anonymity direction is made.

Signed

Date 19 November 2018

Upper Tribunal Judge Lane

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

Signed  
Upper Tribunal Judge Lane

Date 1 December 2018