



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/06927/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at North Shields

**Decision and Reasons
Promulgated**

On 4 January 2019

On 16 January 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

**F. N.
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Soltani, Solicitor, Iris Law Firm

For the Respondent: Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a citizen of Lebanon, travelled to the UK legally on 6 December 2015. He claimed asylum on 30 December 2015, and that protection claim was refused on 22 June 2016. His appeal against the decision to refuse him protection status was then heard and allowed under the Immigration Rules by

decision of First tier Tribunal Judge Head-Rapson, promulgated on 7 August 2017.

2. The Respondent was granted permission to appeal to the Upper Tribunal by decision of Upper Tribunal Judge Bruce of 3 October 2018, albeit not on the grounds of his application, but on the *Robinson* obvious question of what (if any) convention ground the appeal had been allowed upon, and the true basis upon which the Judge had purported to allow the appeal.
3. The Appellant was also granted permission to appeal to the Upper Tribunal by decision of First tier Tribunal Judge Lever of 30 October 2018. The complaint was that if the Judge had dismissed the asylum appeal, she should have gone on to consider the Article 3, Article 8 and humanitarian protection grounds of appeal.
4. Neither party has applied under Rule 15(2A) for further evidence to be admitted in the remaking of the decision. Thus the matter comes before me.

Error of law?

5. When the matter was called on for hearing the parties were agreed that the decision discloses a material error of law, and by consent I was invited to set aside the decision, and remake it. By consent I was invited to dismiss the asylum and humanitarian protection grounds of appeal, and to allow the Article 3 appeal.
6. I am satisfied that it is appropriate to do so in these circumstances, pursuant to Rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008. The parties are content that the Judge's findings of fact fail to disclose any engagement of the Refugee Convention. The Respondent does not have permission to appeal the Judge's finding of fact that the Lebanese state is unable to provide sufficiency of protection to the Appellant. As Mr Diwnycz accepts, the time for offering a challenge to Upper Tribunal Judge Bruce's refusal of permission on that ground is well past. No attempt has been made to challenge the Judge's finding of fact that the Appellant had told the truth about his experiences in Lebanon, and that he faced a real risk of harm from a non state agent should he return there, as a result of reporting the criminal activities of that individual to the authorities.

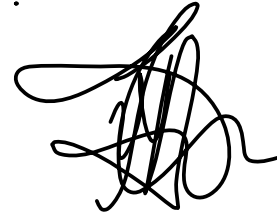
DECISION

By Consent; the Decision of the First Tier Tribunal which was promulgated on 7 August 2017 did involve the making of an error of law that requires the decision to be set aside and remade.

The appeal is dismissed on asylum and humanitarian protection grounds.

The appeal is allowed on Article 3 grounds

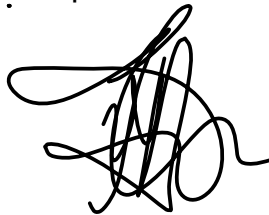
Deputy Upper Tribunal Judge JM Holmes
Dated 4 January 2019



Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. 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 proceedings being brought for contempt of court.

Signed



Deputy Upper Tribunal Judge JM Holmes

Dated 4 January 2019