



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

Appeal Number: PA/07437/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24<sup>th</sup> January 2019**

**Decision & Reasons  
Promulgated  
On 11<sup>th</sup> February 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**SHOUKAT [Z]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms E Fitzsimons of Counsel, instructed by Duncan Lewis & Co Solicitors

For the Respondent: Ms S Walker, Home Office Presenting Officer

**DECISION AND REASONS**

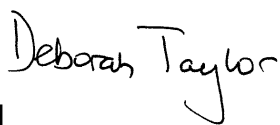
1. This is the appellant's appeal against the decision of Judge Sullivan made following a hearing at Hatton Cross on 12<sup>th</sup> July 2018.
2. The appellant is a citizen of Afghanistan who arrived in the UK on 25<sup>th</sup> April 2013. His date of birth is disputed but the judge found that his date of birth was 1<sup>st</sup> January 1994. The judge disbelieved the appellant's account of being at risk in Afghanistan and dismissed his appeal.

3. The appellant sought permission to appeal on a number of grounds including procedural unfairness, namely a failure by the judge to adjourn the appeal to obtain medical evidence. The failure was material because the judge did not treat him as a vulnerable witness and as a consequence, did not make his credibility findings in that context.
4. It was also argued that he treated the evidence from the Red Cross erroneously in a manner inconsistent with the lower standard of proof and failed to have regard to material matters in his treatment of the country expert report.
5. Permission was granted by Judge Hollingworth on 2<sup>nd</sup> November 2018.
6. At the hearing Mr Walker accepted that there had been a very short period of time between the claim and the listing of this appeal. The appellant had only been given four weeks' notice, and in those circumstances he agreed that it would not have been unreasonable for the judge to grant an adjournment and that as a consequence, it was arguable that the appellant had been deprived of his right to a fair hearing. He did not oppose a remittal to the First-tier Tribunal.
7. This matter is therefore set aside to be reheard in the First-tier Tribunal at Hatton Cross after a six week period in order to allow the appellant to obtain the medicolegal report which he originally sought. He will need a Dari interpreter.

### **Notice of Decision**

The original judge erred in law. His decision is set aside. It will be re-made in the First-tier Tribunal.

No anonymity direction is made.



Signed

Date 7 February 2019

Deputy Upper Tribunal Judge Taylor