



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10479/2018

THE IMMIGRATION ACTS

Heard at Field House  
On 30 August 2019

Decision & Reasons Promulgated  
On 18 September 2019

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

YASSINE [M]  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms B Asanovic, instructed by Duncan Lewis & Co Solicitors  
(Harrow Office)

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Morocco. He appealed to the First-tier Tribunal against the Secretary of State's decision on 10 August 2018 refusing his claim for international protection and also certifying under section 72 of the 2002 Act certifying

his protection claim on the basis that he was guilty of a particularly serious crime and posed a continuing risk to the public.

2. The judge found that the appellant had not been guilty of a particularly serious crime and therefore rebutted the presumption and therefore the certification was lifted. However, on the basis that she did not find the appellant credible, she dismissed the asylum and humanitarian protection appeals.
3. An earlier hearing was adjourned on the basis that it had been argued in the Secretary of State's Rule 24 response that the First-tier Judge had erred in finding that the appellant had rebutted the presumption that the offence for which he was convicted was particularly serious. It was common ground that the representatives needed time to prepare legal argument as to whether the respondent could raise such an issue in a Rule 24 response or was required to do so by way of appeal.
4. At the hearing Ms Everett withdrew the Rule 24 response. She did not consider, despite what had been decided by the Upper Tribunal in Smith [2019] UKUT 216 (IAC), that it could be argued that a Rule 24 response was a proper forum for the challenge that was set out there. Accordingly, that point went no further.
5. As regards the judge's credibility findings, it was common ground that the points made in the grounds set out a sound challenge to those findings which were required to be set aside. The extent of remaking of the decision is such that it will have to be remitted for a full rehearing in the First-tier Tribunal, subject only to the fact that the judge's findings that the appellant was not guilty of a particularly serious crime are to be preserved. The matter will be relisted before a First-tier Judge at Hatton Cross.

### **Notice of Decision**

The appeal is allowed to the extent set out above.

No anonymity direction is made.



Signed

Date 4 September 2019

Upper Tribunal Judge Allen