



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/11756/2018

THE IMMIGRATION ACTS

Decided on the papers

Decision & Reasons Promulgated
On 30 September 2019

Before

UPPER TRIBUNAL JUDGE SMITH

Between

S A
[ANONYMITY DIRECTION MADE]

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

An anonymity order was not made by the First-tier Tribunal. However, as this appeal raises protection issues, it is appropriate to make an anonymity order. Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of his family. This direction applies, amongst others, to both parties. Failure to comply with this direction could lead to contempt of court proceedings.

1. The Appellant appeals against a decision of First-tier Tribunal Judge Cox promulgated on 24 June 2019 dismissing her appeal (“the Decision”). By a decision dated 25 June 2019, First-tier Tribunal Judge Robertson granted permission to appeal on the basis that there was an arguable error of law made by Judge Cox when determining the credibility of the Appellant’s claim and when

dealing with some of the evidence. The error of law hearing is listed on 16 October 2019 in Manchester.

2. The Respondent has filed a rule 24 notice which reads as follows (so far as relevant):

“...2. The respondent does not oppose the appellant’s application in line with the grant of permission and invites the Tribunal to determine the appeal with a fresh oral (continuance) at the First Tier Tribunal.”

3. In light of the Respondent’s concession, I find that the Decision contains an error of law. I therefore set aside the Decision. I remit the appeal to the First-tier Tribunal for a re-hearing. When deciding whether to agree to the proposal to remit, I 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.”

Having regard to the nature of the grounds of appeal which challenge the assessment of the credibility of the Appellant’s case, I am satisfied that it is appropriate to remit the appeal to the First-tier Tribunal for redetermination.

DECISION

I am satisfied that the Decision of First-tier Tribunal Judge Cox contains a material error of law. I therefore set aside his decision and remit the appeal to the First-tier Tribunal for re-hearing before a Judge other than Judge Cox.

Signed
Upper Tribunal Judge Smith



Dated: 27 September 2019