



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

Appeal Numbers: PA/13423/2018
PA/13425/2018

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 12 August 2019**

**Decision & Reasons Promulgated
On 16 August 2019**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**MJ
EA**

ANONYMITY DIRECTIONS MADE

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Semegia-Janneh, Counsel

For the respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellants. This prohibition applies to, amongst others, all parties.

1. I have anonymised the appellants' names because this decision refers to their asylum claims.
2. The appellants have appealed against a decision of the First-tier Tribunal (FTT) sent on 15 January 2019 dismissing their appeals on protection and human rights grounds.
3. Mrs Pettersen conceded that the appellants' grounds of appeal contain errors of law such that the FTT decision must be set aside and remade by another FTT other than FTT Judge AJ Parker. Both parties therefore consented to the appeal being allowed and the FTT's decision being set aside. They also agreed that the appeal should be remitted to be remade by the FTT de novo. I decided that it is appropriate to take this course pursuant to rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008.
4. This is an appeal that turned on the credibility of the second appellant's claim to be an atheist. I agree with the parties that the FTT's findings for rejecting that claim are infected by material errors of law, identified in the grounds of appeal, and must be remade entirely. The FTT's reasons for rejecting the second appellant's claim to be an atheist at [35] of the decision are inadequate and contain material errors of fact. In particular, the FTT wrongly stated that the second appellant did not claim to be an atheist until her substantive interview when it is clear from 4.1 of the screening interview that she feared everyone because she was "not a Muslim". In addition, as acknowledged by Mrs Pettersen the remaining three reasons offered at [35] are unclear and difficult to follow.
5. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the FTT to make completely fresh findings of fact.

Decision

6. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
7. The appeal shall be remade by the FTT (a judge other than Judge AJ Parker) de novo.

Signed: *UTJ Plimmer*

Ms M. Plimmer
Judge of the Upper Tribunal

Date:

12 August 2019