



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

Appeal Number: PA/03014/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 10 January 2020**

**Decision & Reasons Promulgated
On 16 January 2020**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**MKAA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Bandegani, Counsel, instructed by Joint Council for the Welfare of Immigrants

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

DECISION AND REASONS

The appellant is appealing against the decision of First-tier Tribunal Judge Siddall (“the judge”) promulgated on 10 October 2019 dismissing his protection and asylum claim.

The appeal turned on whether the appellant is a citizen of Syria. The judge found that he is not.

At paragraph 16, when summarising the applicable law, the judge described the standard of proof as being “substantial grounds for believing”.

However, later in the decision the judge appeared to apply a different standard of proof. At paragraph 69 the judge stated, "I find it more likely than not that he has spent a significant period of time in Egypt". At paragraph 70 the judge stated, "on the balance of probabilities..." and then later in the same paragraph "I find it more likely than not...".

Before me, Ms Everett conceded that the judge had erred by not applying the correct standard of proof. I agree. Although the self-direction as to the standard of proof at paragraph 16 was correct, the terminology used in paragraphs 69 and 70, as quoted above, indicates that the judge did not carry the self-direction through into the evaluation of the evidence and that the wrong standard of proof (balance of probabilities) was applied.

The parties were in agreement that the appropriate course of action is remittal to the First-tier Tribunal for the matter to be heard afresh.

Notice of Decision

The appeal is allowed.

The decision contains a material error of law and is set aside.

The appeal is remitted to the First-tier Tribunal to be heard afresh before a different judge.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed



Upper Tribunal Judge
Sheridan

Dated: 14 January
2020