



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

Appeal number: PA/07516/2019 (P)

THE IMMIGRATION ACTS

**Decided under rule 34**

**Decision and Reasons  
Promulgated  
On 13 July 2020**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**N K**

Appellant

**and**

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

Respondent

**DETERMINATION AND REASONS**

1. This is an appeal against the decision of FtT Judge N Lodge, promulgated on 4 December 2019.
2. The grounds are:
  - [1] no assessment of whether the appellant and another witness were “vulnerable witnesses”;
  - [2] errors in treatment of medical evidence – most significantly, in addressing that only after rejecting credibility;
  - [3] absence of reasoning on medical treatment available in Afghanistan;
  - [4] inadequacy of reasons for rejecting evidence of supporting witness;

[5] absence of finding on relationship to two commanders, a key aspect of the claim; and

[6] absence of consideration [or of reasoning] on article 15 (c) and on internal relocation.

3. The FtT granted permission on all grounds. The UT issued directions with a view to deciding without a hearing whether the FtT erred in law and, if so, whether its decision should be set aside. In response, parties agree that the case is suitable for decision “on the papers”; the decision of the FtT errs in law; it should be set aside; and the case should be remitted to the FtT for a fresh hearing.
4. For the reasons advanced by parties, I am satisfied that it appropriate to proceed accordingly.
5. The one outstanding issue that the SSHD asks for the FtT’s findings on the appellant’s age (derived in part from a previous appeal) to be preserved. The appellant does not agree that this was not in issue, and asks for no findings to be preserved.
6. It appears that age was in issue. I also consider that it would be artificial and cumbersome to bind the next tribunal on the point. In this case, an unhampered remit is preferable.
7. The decision of the First-tier Tribunal is set aside. Under section 12 of the 2007 Act, and under Practice Statement 7.2, the case is remitted to the FtT for an entirely fresh hearing. The member(s) chosen to hear the case are not to include Judge Lodge.
8. The anonymity direction made by the FtT is preserved.
9. The date of this determination is to be taken as the date it is issued to parties.

Hugh Macleman Date 29/06/2020

UT Judge Macleman

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#### NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal’s decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically).**
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**
5. **A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**
6. **The date when the decision is “sent” is that appearing on the covering letter or covering email.**