



IAC-AH-SAR-V1

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

Appeal Number: PA/10305/2018

THE IMMIGRATION ACTS

**Heard at North Shields
On 13 March 2020**

**Decision & Reasons Promulgated
On 24 March 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**RE
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Wilford,

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born in 1988 and is a male citizen of Kyrgystan. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 15 August 2018 refusing his application for international protection. The First-tier Tribunal, in a decision promulgated on 24 September 2019, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I find that the appeal should be allowed and the decision of the First-tier Tribunal set aside. The first ground of appeal asserts that the judge made a number of negative credibility findings on the appellant's evidence on matters which had not been raised by the Secretary of State in the refusal

letter and which had not been addressed at the hearing during cross-examination. These included the reasons why the appellant chose to change his name in September 2014 (when the first instance of alleged persecution took place in December 2014) and why the appellant's evidence regarding his attendance at hospital different from that of the hospital records. It is clear that the judge attached significant weight to what he considered to be significant inconsistencies in the appellant's evidence, describing the matters concerned as 'indicative of the appellant's account being a fabrication' and the inconsistencies as 'glaring... significant and inexplicable.' Both parties accept that the appellant was not given any opportunity to address concerns of the judge of which they were wholly unaware before and during the hearing and which had not been raised at any time before the judge prepared his decision for promulgation. In the circumstances, there has been a procedural irregularity which has effectively denied the appellant a fair hearing of his appeal.

3. I do not propose to consider the other grounds given that I have set aside the decision of the First-tier Tribunal and do not preserve any of the findings of fact. There will need to be a hearing *de novo* which is best conducted in the First-tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to hear the appeal *de novo* and to remake the decision.

Signed
2020
Upper Tribunal Judge Lane

Date 13 March

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

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