



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/04291/2019

**THE IMMIGRATION ACTS**

Heard at Bradford via Skype for Business  
On 7 May 2021

Decision & Reasons Promulgated  
On 21 July 2021

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**REDOUANE BOUDEMAGH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Bundock

For the Respondent: Mr Walker, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a male citizen of Algeria who was born on 9 September 1970. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 30 January 2019 refusing his human rights application. The First-tier Tribunal, in a

decision promulgated on 23 July 2020, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the initial hearing in the Upper Tribunal, Mr Walker, who appeared for the Secretary of State, told me that the Secretary of State considered that the First-tier Tribunal had erred in law such that its decision falls to be set aside. I agree and shall give brief reasons for setting aside the First-tier Tribunal's decision.
3. It is not disputed that the appellant suffers from serious mental health problems. At [25], the judge refers to the evidence of the appellant's medical expert witness, Dr Ali. Dr Ali had written two reports which were before the Tribunal, the first dated April 2019 and the second (to the judge refers at [2]) dated 9 July 2019. Whilst the judge records Dr Ali's conclusions regarding the appellant's risk of self-harm if removed to Algeria, the judge states, somewhat obliquely, that the conclusions of the doctor 'lack quantification'. I assume that the judge means by this that the evidence lacks detailed justification for the doctor's opinion. However, Dr Ali's first report contained a detailed explanation for his opinion that the removal of the appellant would be likely to cause a significant breakdown in his mental health. I accept (as Mr Walker told me so does the Secretary of State) the appellant's submission that the judge has not adequately dealt with Dr Ali's evidence, in particular his first report. It is apparent that the judge's very brief reasoning at [25] has failed to address the totality of the medical evidence. It was possible for the judge to reject all or part of that evidence but he was required to consider all of it before doing so.
4. The error identified is, as both parties agree, sufficiently serious to warrant setting aside the decision. The remaining grounds are very helpfully set out and developed in the skeleton argument of Mr Bundock, who appeared for the appellant before the Upper Tribunal. I consider that, in addition to what I say at [3] above, the judge has also fallen into error for each of the other reasons advanced in the grounds of appeal. In addition, Mr Bundock submitted that the failure of the judge to deal with the relevant jurisprudence (in particular, *AM (Zimbabwe) v SSHD* [2020] UKSC 17) was an obvious error which the Upper Tribunal should consider notwithstanding that the grounds of appeal do not raise it. Mr Walker raised no objection. I consider that the decision of the First-tier Tribunal is so flawed that it is necessary for there to be a hearing *de novo* in the First-tier Tribunal following which that Tribunal shall remake the decision.

### **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 remake the decision following a hearing *de novo*. Both parties may adduce new evidence provided copies of any evidence (including witness statements) are sent to the other party and to the Tribunal at least 10 days prior to the hearing.

**LISTING DIRECTIONS: Manchester or Bradford: first available date (contact Mr Bundock's clerk on [~] to arrange the next hearing); No interpreter (if the appellant's representative seek to call the appellant to give evidence and consider that he requires an interpreter, they must contact the Tribunal immediately to arrange for an interpreter to attend the hearing): 2 hours: Not Judge Loke.**

Signed

Date 7 May 2021

Upper Tribunal Judge Lane