



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/05455/2019 (V)

THE IMMIGRATION ACTS

Heard at Field House  
On 25 November 2021

Decision & Reasons Promulgated  
On 29 November 2021

Before

UPPER TRIBUNAL JUDGE PITT

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

TM

(ANONYMITY DIRECTION MADE)

Respondent

**Representation:**

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

For the Respondent: Mr J Greer, Counsel, instructed Legal Justice Solicitors & Partners

DECISION AND REASONS

**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.

1. This decision is the remaking of the appellant's appeal brought on asylum and human rights grounds. The remaking is required following the decision of the Upper Tribunal dated 1 June 2021 which found an error of law in the decision of the First-tier Tribunal dated 21 December 2020, setting it aside to be remade.
2. The appellant is a national of Afghanistan. The appellant's immigration history is set out in paragraphs 2 to 5 of the error of law decision dated 1 June 2021 and does not need to be repeated here.
3. The parties were in agreement that there are extant findings of fact, set out in paragraph 108 of the First-tier Tribunal decision:

"On the totality of the evidence, I find that there is a reasonable degree of likelihood that:

- In 2012 the Appellant joined the local police force.
- The Appellant's brother also joined a few months later.
- Four or five months after joining, the Taliban abducted the Appellant. They detained him for 12 days. They severely beat him and accused him of spying for the government. The village elders arranged the Appellant's release.
- Subsequently, the Appellant felt he had no choice but to re-join the local police force.
- In 2015 the Appellant's brother was killed by a land mine.
- A few months later, the Taliban abducted the Appellant's sons and held them for over a month. The village elders arranged the release of the children.
- The Appellant and his two eldest sons fled Afghanistan. The Appellant's wife and his three younger children went to stay with his wife's relatives.
- The Appellant's home has been burnt down."

4. Ms Everett indicated, given the appellant's accepted profile and the well-known events in Afghanistan over the summer of 2021, that the respondent accepted that the appeal should be allowed. This concession was in line with the respondent's Country Policy and Information Note Afghanistan: Fear of the Taliban Version 1.0 October 2021 which provides:

"2.4.11 However, the current evidence suggests that persons likely to be at risk of persecution, because they may be considered a threat or do not conform to the Taliban's strict interpretation of Sharia law, include but are not limited to:

- Former government employees and members of the Afghan National Armed Forces (ANSF), including the police

5. The Tribunal accepts the respondent's concession is inevitable given the new country situation in Afghanistan. The appellant would face a real risk of persecution for a Refugee Convention reason were he to be returned to Afghanistan and would also face a real risk of torture or inhuman or degrading treatment. His appeal is therefore allowed on asylum and human rights grounds.

**Notice of Decision**

6. The decision of the First-tier Tribunal disclosed an error on a point of law and was set aside on 1 June 2021 to be remade.
7. The appeal is re-made as allowed on asylum and human rights grounds.

Signed: *S Pitt*  
Upper Tribunal Judge Pitt

Date: 25 November 2021