



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

First-tier Tribunal No:
HU/04633/2016

THE IMMIGRATION ACTS

Decision & Reasons Promulgated:
On the 31 January 2023

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

HI (AFGHANISTAN)
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Alasdair Mackenzie, instructed by TRP Solicitors
For the Respondent: Susana Cunha, Senior Presenting Officer

Heard at Field House on 20 December 2022

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court. I make this order in order to minimise the risk to the appellant, who is already accepted to be at risk of treatment contrary to Article 3 ECHR in the event of his removal.

DECISION AND REASONS

1. This appeal came before me today for a Case Management Hearing. The Secretary of State had previously accepted in writing that the appellant's removal

to Afghanistan would be in breach of Article 3 ECHR. Ms Cunha stated before me that he is to be granted some form of leave in recognition of that fact. It seems, however, that the appellant's recent incarceration has caused some difficulty with granting leave, as a result of the difficulty of enrolling his biometrics.

2. Those difficulties are not the concern of the Tribunal, as Mr Mackenzie readily accepted. The acceptance recorded in the second sentence of the preceding paragraph suffices to dispose of the appeal by consent, as both representatives accepted before me. In the circumstances, I shall allow the appeal on human rights grounds with the consent of the parties.

Notice of Decision

The appeal is allowed on human rights grounds. The removal of the appellant would be contrary to Article 3 ECHR and is therefore unlawful under section 6 of the Human Rights Act 1998.

M.J.Blundell

Judge of the Upper Tribunal
Immigration and Asylum Chamber

20 December 2022