



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005720
First-tier Tribunal No:
PA/01476/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 24 July 2023

Before

UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE WILDING

Between

HA
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Sadiq, Solicitor, from Adam Solicitors
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

Heard at Field House on 20 July 2023

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.

DECISION AND REASONS
(extempore)

1. This is an appeal against a decision of the First-tier Tribunal dismissing the appeal of the appellant against a decision of the respondent refusing him international protection.
2. The details of the claim are wholly unimportant for our purposes. What matters is that the primary ground of appeal is that the case proceeded in the absence of

the appellant and his representatives because the appellant and his representatives did not know about the hearing.

3. I do note that the First-tier Tribunal Judge who determined the matter in the absence of the appellant did not make any comment in the Decision and Reasons that showed that he had checked the file to satisfy himself that the notices had gone out. Of course, a record that a notice has gone out is not proof that it has arrived but it is something that needs to be thought about. There is no indication that that has been done.
4. Mr Sadiq has explained to us with some care that he has reason to think that two reference numbers have been created for this appeal and has told us in some detail how he had been searching the computer system and could not find what he expected to find but was very surprised when he eventually found out that the appeal had been dismissed.
5. We are not going to be able to get to the bottom of that. We have gone through the material before us and there is simply not enough before us that enables us to unravel what went wrong but it is quite clear is that this is a case that is being taken seriously by the appellant; work has been done to prepare the case, there has to be a hearing, it is not his fault that there has not been a hearing and we set aside the decision of the First-tier Tribunal because there was a procedural irregularity amounting to an error of law and we direct the case be heard again in the First-tier Tribunal.
6. We also direct both parties to be anxious to liaise with the First-tier Tribunal to make sure that messages are getting through. I stress we have not been able to work out what has gone wrong, only that something has, and although the First-tier Tribunal will be invited to take particular care we must direct both parties to contact the First-tier Tribunal as well please because this is an expensive mistake and it must not be allowed to happen again. We do not say that as a criticism of anybody. We are not in a position to say where the fault lies, only that it is plain that a mistake has been made somewhere.

Notice of Decision

7. The First-tier Tribunal erred in law. We set aside its decision and direct that the appeal be re-determined in the First-tier Tribunal.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

24 July 2023