



IMMIGRATION AND ASYLUM CHAMBER

THE IMMIGRATION ACTS

Heard at: Field House
On: 15 May 2014

Decision Promulgated:
On: 29 May 2014

Before

Lord Bannatyne

Upper Tribunal Judge Pitt

between

Juma Ahmed Al Abbasi

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Smyth of Kesar & Co Solicitors

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

DETERMINATION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Malone dated 11 March 2014. The decision of Judge Malone allowed the appeal as he found that the respondent's decision dated 24 January 2014 was not in accordance with the law but refused the

appeal on asylum, humanitarian protection and human rights grounds.

2. The appellant challenges only the decision to refuse the appeal under Article 8 of the ECHR. He argues, following Article 8 (2), that an interference with family and private life cannot be compliant with Article 8 if the decision giving rise to the interference is not "in accordance with the law". Having found the respondent's decision not in accordance with the law, the appellant maintains that it was not open to Judge Malone to refuse the Article 8 appeal as he did.
3. Mr Avery conceded the point entirely and we saw no reason to go behind the agreement of the parties.
4. We therefore find that the determination of the First-tier Tribunal disclosed an error on a point of law to the extent that it refused the appellant's Article 8 claim outright.
5. We substitute a decision finding that the Article 8 claim is allowed to the limited extent that the decision of the respondent was not in accordance with the law.

DECISION

6. The Immigration Judge made an error on a point of law regarding the Article 8 decision and that part of the First-tier Tribunal decision is set aside.
7. We re-make the Article 8 claim as allowed on the limited basis set out above.

Signed: 
Upper Tribunal Judge Pitt

Date: 16 June 2014