



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: AA/01900/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 30 April 2015**

**Determination
Promulgated
On 29 May 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**GULBUDDIN ABDULRAHIMZAI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hoshi, instructed by Hammersmith & Fulham
Community Law Centre

For the Respondent: Miss Brocklesby-Weller, a Senior Home Office Presenting
Officer

DECISION AND REASONS

1. The appellant, who was born on 31 May 1997, is a citizen of Afghanistan. He appealed against the decision of the respondent dated 16 December 2013 to the First-tier Tribunal where his appeal was dismissed. He now appeals, with permission, to the Upper Tribunal.

2. The appellant asserts that he was not given a fair hearing by the First-tier Tribunal. He claims that the judge made disparaging comments regarding the appellant which cast doubt upon the impartiality of the judge's analysis. Counsel who appeared for the appellant at the hearing (Mr Halim) has, following directions issued by this Tribunal, filed and served a witness statement and the judge in question was invited (by a letter sent to him by the resident judge at Field House on 13 February 2015) to offer his comments. No comments have been forthcoming.
3. It is unfortunate when circumstances such as these arise. However, I do not consider it necessary to make findings of fact in respect of what was and was not said at the First-tier Tribunal hearing; it is, in my opinion, sufficient that both the appellant and Counsel, who appeared on his behalf before that Tribunal, clearly believed that the judge did not offer them a fair hearing. It is important that not only should any hearing be conducted fairly but that the parties and their representatives should consider that it was so conducted; as I find in this instance that the appellant and his representative did not believe that the hearing was conducted fairly, the only proper course of action is for me to set aside the First-tier Tribunal decision. None of the findings of fact shall stand. The appeal should be returned to the First-tier Tribunal for that Tribunal to consider the evidence afresh and determine the appeal. That hearing shall take place at Hatton Cross on **7 October 2015 at 10 a.m.**

Notice of Decision

4. The determination of the First-tier Tribunal is set aside. The appeal is remitted to the First-tier Tribunal for it to remake the decision.

No anonymity direction is made.

Signed

Date 28 May 2015

Upper Tribunal Judge Clive Lane