



**Upper Tribunal  
(Immigration And Asylum Chamber)      Appeal Number: AA/06877/2014**

**THE IMMIGRATION ACTS**

**Heard at: Field House**

**Decisions and Reasons  
Promulgated**

**On: 19 February 2015**

**On 3 March 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MAILER**

**Between**

**MR JAN MOHAMMED MIAKHAIL**

(NO ANONYMITY DIRECTION MADE)

**Appellant**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondent**

**Representation**

**For the Appellant:** Ms V Easty, counsel (instructed by Sultan Lloyd Solicitors)

**For the Respondent:** Mr T Wilding, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. On 30 December 2014 the decision of the First-tier Tribunal dismissing the appellant's appeal was set aside following a hearing. The First-tier Tribunal Judge had not sufficiently engaged with three reports that had been produced. This resulted in a failure to consider the relevance of the appellant's mental health issues insofar as the respondent was contemplating removing him to Kabul.
2. In particular, there was reference by the Judge to a complete lack of evidence from a consultant psychiatrist. There had been evidence produced from Dr Applebee who had specific training in psychiatric conditions. Further, the First-tier Tribunal had considered alternatives to the causes for the appellant's depression. He had not set out any of his experience or qualifications entitling such conclusions to be drawn. Moreover, it is not clear in any event whether being removed from the

culture of his birth or from his family or chemical imbalance or vitamin deficiency can be responsible for causing PTSD.

3. In the circumstances, the question of whether it would be unreasonable or unduly harsh for this appellant to be returned to Kabul was required to be grappled with and evaluated in greater depth. This had not taken place.
4. The decision was accordingly set aside.
5. At a case management hearing on 19 February 2015, the parties submitted at the outset that the matter should be remitted to the First-tier Tribunal for a fresh decision. It was requested that the matter be submitted to Taylor House at the convenience of the parties.
6. I have had regard to the Senior President's Practice Statement regarding the issue of remitting an appeal to the First-tier Tribunal for a fresh decision. In applying the Statement I am satisfied that the effect of the error has been to deprive the appellant before the First-tier Tribunal of a full opportunity of having his case properly presented and considered. Moreover, I am satisfied that there will be a substantial amount of evidence led.

### **Notice of Decision**

The appeal is accordingly remitted to the First-tier Tribunal (Taylor House) for a fresh decision to be made. The date arranged is 13 August 2015

No anonymity direction is made.

Signed: Deputy Upper tribunal Judge Mailer

Date: 2/3/2015