



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

Appeal Number: AA/10534/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons  
Promulgated**

**On the 5<sup>th</sup> October 2015**

**On the 14<sup>th</sup> October 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PARKES**

**Between**

**MR NAZAR WALI HOTAK  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr T Lay, Counsel instructed by Duncan Lewis & Co Solicitors

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

**DECISION AND REASONS**

1. For the reasons that I am about to give I find that the determination of Judge Carlin does not contain an error of law. The Appellant is a national of Afghanistan and had applied for asylum. That was refused and his appeal was heard by Judge Carlin at Birmingham on the 16<sup>th</sup> April 2015 and the appeal was dismissed for reasons given in a decision promulgated on the 22<sup>nd</sup> May 2015.
2. It is not disputed by the Home Office or at any other point that the Appellant has previously sustained injuries in some sort of blast. The

Appellant's case is that that was as a result of action against him by the Taliban. The Home Office dispute that.

3. The findings made by the Judge start at paragraph 13. The Judge correctly noted there at paragraph 15 that there was the lower standard of proof and reasons for the finding that he had not reached that standard and discharged the burden are to be found starting at paragraph 16.
4. The Judge would have expected the Appellant's mother to have had visits from members of the Taliban since he had left Afghanistan and did not accept to the lower standard that that had taken place. In paragraph 17 he noted that the Appellant had had no contact from the Taliban until two weeks before he left and his mother had prevented him from being taken.
5. Referring to the evidence as to the position of women in Afghanistan the Judge rejected the suggestion that his mother would have been able to prevent the Taliban from taking him, if that was their intention, and also found that it was improbable that they would then leave him there for his mother to take the chance to make arrangements for him to leave the country. Those are perfectly justified findings which were clearly open to the Judge on the information that he had.
6. Issue is taken by the Appellant with the Judge's reliance on the absence of evidence from his mother. The Judge looked at what the Appellant had said had taken place both before and after he had left, whether contact was direct or indirect is perhaps not particularly important. The fact is that indirect contact at the very least was maintained over the years since the Appellant has been in the UK, and that had resulted in his mother being able to forward to him documents that he has relied on in the appeal.
7. Even if she had not provided him with a witness statement either through reluctance or even perhaps through illiteracy information could have been provided that would have given the detail that the Judge found was missing. In paragraph 20 he found the Appellant to be vague. He was unable to give any detail about the visits such as the number and frequency and the Judge noted that had the Appellant's mother been receiving those visits he would have expected the Appellant to be able to provide such details.
8. It is correct to note that the Judge did also note that there was nothing directly from the mother but given the findings that the Judge had made on the information that he had that were open to him those findings are irrelevant. One can simply take out paragraph 22 and that does not affect the reasoning that the Judge applied.
9. That left the Judge with a situation where the Appellant was injured in a country which we know has internal conflict and the question for the Judge was were those caused by the Taliban where he gave perfectly decent reasons for rejecting the Appellant's account as to how it was he came to leave Afghanistan and was entitled against that rejection of credibility to

find that the claim that this had been brought by the Taliban rather than by some other cause was entirely open to the Judge.

10. Accordingly I find that the Judge made no error of law, the findings were open to him and the decision stands.

#### NOTICE OF DECISION

The decision of the First-tier Tribunal contains no error of law and the decision stands as the disposal of the Appellant's appeal.

No anonymity direction is made.

#### Fee Award

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 13<sup>th</sup> October 2015

Deputy Upper Tribunal Judge Parkes