



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

Appeal Number: PA/11620/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 12 May 2017**

**Decision & Reasons Promulgated
On 18 May 2017**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

[S M]

~~(anonymity direction not made)~~

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Khan of Counsel

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

DECISION AND REASONS

1. I see no need for and do not make any order restricting publicity about this decision.
2. This is an appeal against the decision of the First-tier Tribunal dismissing in the absence of the appellant an appeal against the decision of the respondent. The circumstances in terms of the decision are not important because the ground of appeal is very simple. It is that there was a procedural irregularity amounting to an error of law because the appellant did not actually know about the hearing.
3. The records show that notice of hearing was sent to the appellant, who at that time was not represented, to a garbled version of her address. Reference is

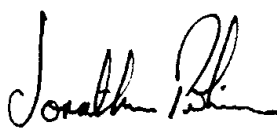
made to “St. Lawrences” but in fact the relevant address at the time was “St. Lukes”. The only error on the record is the reference to St. Lawrences. The area and postal code to which the notice of hearing was sent was correct. In the ordinary course of events it would not be in least surprising if the Post Office had been sufficiently adept to have actually delivered it to the correct address but there is absolutely no evidence that that happened and I cannot be satisfied that it did.

4. It follows therefore that I must find the appellant did not know about the hearing.
5. There is a slight gloss on this because there were in fact two hearings. There was a pre-hearing review and then the hearing for the determination of the appeal and between those two hearings the solicitors came on the record. It is regrettable that they were not in fact given notice of the hearing by the Tribunal and it is a matter of surprise, which has been drawn to my attention by Ms Isherwood’s diligent work, that the appellant’s solicitors were able to introduce themselves with reference to the Tribunal file number. I can only see this as an unexplained mystery. I can go no further than saying that a mistake was made. The important mistake for these purposes is that the address to which the notice of hearing was sent to was the wrong address and there is no evidence it actually ever arrived in the hand of the appellant.
6. It follows that I have no alternative but to set aside the decision and as the consequence is that the appellant has not had a fair hearing the only proper course is to send it back to the First-tier Tribunal where it will be listed and heard properly, I hope, in due course.

Notice of Decision

The appeal is allowed and the case returned to the First-tier Tribunal for a decision.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 16 May 2017