Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/01453/2017**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 8th February 2018	**On 14th February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

RA
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Lay of Duncan Lewis Solicitors
For the Respondent: Ms Isherwood Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Quinn promulgated on the 9th October 2017 whereby the judge dismissed the appellant's appeal against the decision of the Respondent to refuse his protection claim based on asylum, humanitarian protection and Articles 2 and 3 of the ECHR.

2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all of the circumstances I make an anonymity direction.

3. The appellant is a citizen of Afghanistan.

4. The appellant entered the United Kingdom on 3 October 2015. On that day he claimed asylum or international protection at Heathrow airport. There was an asylum interview on the 23 December 2015. His claim to

international protection was refused in a detailed, Reasons for Refusal Letter dated 26 January 2017.

5. The appellant appealed against that decision and the appeal appeared before Judge Quinn at Hatton Cross on 19 September 2017. By decision promulgated on 9 October 2017 the judge dismissed the appellant's appeal. The appellant sought leave to appeal against that decision. By decision of First-tier Tribunal Judge L Murray dated 29 November 2017 permission to appeal to the Upper Tribunal was granted on all grounds.

6. Thus the appeal appeared before me in the first instance to determine whether or not there was a material error of law in the decision of the First-tier Tribunal.

7. The grounds of appeal contained some 14 detailed challenges to the approach of the judge to the issues in the case. It is not necessary rehearse all of the grounds. At the hearing before me the respondent's representative accepted that several of the grounds of challenge were made out and that by reason thereof it would be difficult to argue that there was no material error of law within the decision of the judge.

8. The appellant's representative had summarised the grounds in a skeleton argument which specifically identified the fact that the judge had failed to take into account specific evidence both as to the bona fides of certain witnesses but also as to corroborative evidence relating to the activities of the appellant in Afghanistan and the risk to the appellant arising out of his actions as an interpreter for the U.S. Army. The evidence included:-

   i) Evidence from an alleged military supervisor Mr Okraku, which evidence had details which gave some corroboration to the claim that he was in the U.S. Army Officer responsible for monitoring interpreters and had been in Afghanistan. The judge in making conclusions appear to have ignored details in the evidence which seemed to confirm Mr Okraku's position.

   ii) Evidence from the appellant's family members, which appeared not to have been dealt with at all.

   iii) Photographic evidence of the appellant with U.S. Army military personnel.

9. Central to consideration of the appellant's case was whether or not the appellant had acted as interpreter for the U.S. Army. It is unclear on the findings of fact made whether or not the judge found that the appellant was an interpreter or not. Whilst the judge deals with some of the evidence giving reasons for not accepting that other facets of the case the judge had not dealt. It was also unclear whether the judge had come to any conclusion as to whether the appellant was working as an interpreter and whether it is reasonably likely that he would be at risk by reason thereof.

10. It having been accepted that there were material errors within the decision I invited submissions as to how the appeal should be determined. Both parties agreed that the only course open was for the appeal to be remitted back to the First-tier Tribunal for a hearing afresh on all issues. It was felt necessary for findings to be made on the specific core elements of the appellant's account and that otherwise proper findings upon the credibility of the appellant were necessary in light of all the evidence.

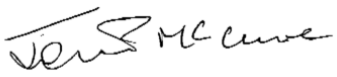
11. Accordingly as it has been accepted by the respondent that there are material errors of law in the decision and the parties are agreed on the course that this case has to take, I set aside the decision of First-tier Tribunal and direct that the appeal is to be heard afresh. The hearing afresh will be in the First-tier Tribunal.

12. I have considered whether any of the findings of fact made by the First-tier Tribunal Judge should be preserved. However as certain elements of the evidence have not been considered properly and as such the findings on credibility are brought into question, I do not preserve any findings of fact.

Notice of Decision

13. I allow the appeal of the appellant to the extent that the appeal is remitted back to the First-tier Tribunal for a hearing afresh.

Signed



Date 9th February 2018

Deputy Upper Tribunal Judge McClure