



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04876/2017

THE IMMIGRATION ACTS

Heard at Field House
On 2 July 2018

Decision & Reasons Promulgated
On 2 July 2018

Before

DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL

Between

MR A A S A
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms J Elliott-Kelly, Counsel, instructed by Duncan Lewis & Co Solicitors
For the Respondent: Mr T Melvin, Home Office Presenting Officer

DECISION AND DIRECTIONS

1. This appeal is brought by the appellant, who claimed to be a national of Yemen, against the decision of Judge Oliver of the First-tier Tribunal (FtT) sent on 4 September 2017 dismissing his appeal against the decision made by the respondent refusing to grant him asylum. In the refusal decision letter at paragraphs 14–19 the respondent addresses the issue of his nationality, concluding that he had not demonstrated sufficient knowledge of Yemen to satisfy the respondent he was a national of Yemen. The FtT judge was of the same view. In a decision sent on 23 January 2018 I set aside the decision of the judge for material error of law relating to his treatment of the issue of nationality. Subsequently on 31 May 2018, I issued Further Directions requiring the respondent to produce a promised ‘reconsideration decision’. In response the respondent produced a further decision dated 18 May 2018 now accepting that the appellant was a national of Yemen but maintaining her earlier assessment that he had not given a credible account of having faced difficulties in Yemen or to be at real risk of serious harm on return.

2. Whether intentionally or not, the respondent's decision letter of 18 May 2018 amounts to a fresh decision, not merely a supplementary decision, and, confirming that, it invited the appellant to appeal, which he did. I am informed by Ms J Elliott-Kelly that his appeal against this new decision is presently listed at York House for Friday 6 July under reference number PA/07103/2018.

3. Both parties submitted that the best solution given the new decision would be to remit this appeal to be heard before the First-tier Tribunal with a direction that it be joined with the appeal presently set for this Friday.

4. I decided to accede to this joint submission. Although in my earlier directions I had stated that the only remaining issue (other than nationality) was internal relocation, I made no directions relating to credibility and it would be artificial to seek to limit the issue, even in the context of this appeal, to internal relocation when at the heart of the issues of both risk in the home area and risk in the alternative area(s) are issues of credibility.

5. In case it is relevant to the First tier Tribunal considering the readiness of the appeal going ahead on Friday on the above basis (that it be joined with this appeal), I record that both parties felt an adjournment would be the safest course to ensure adequate documentation (including of course the latest country information on the situation in Yemen in view of ongoing press reports of surrender by the Houthi rebels in certain parts of the country) is before the FtT judge and that the judge has had sufficient time to peruse the bundles.

6. For the above reasons:

The decision of the FtT judge is set aside for material error of law.

In view of the evident fact that the parties remain in dispute about the factual matrix, the case is remitted to the First-tier Tribunal where it is to be joined with new appeal PA/07103/2018 presently fixed for hearing at York House on Friday 6 July.

It may well be that the FtT due to hear this case on Friday decides to adjourn it, but I leave that as a matter for it.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 2 July 2018



Dr H H Storey
Judge of the Upper Tribunal

