



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

Appeal Number: PA/08140/2017

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
On 8th April 2019**

**Decision & Reasons Promulgated
On 9th April 2019**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**HT
(anonymity order made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Farrell, instructed by Lexmark Legal Associates
For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant in this determination identified as HT. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings

1. The appellant's appeal against the refusal of his claim for international protection and his human rights claim was dismissed for reasons set out in a decision by First-tier Tribunal judge Hemborough promulgated on 3rd October 2018.
2. Judge Hemborough found, inter alia, that the issue raised, for the first time, at the hearing before him that he had a wife and British citizen child, was a new matter and, in accordance with *Mahmud (s85 – NIAA 2002 – new matters) Iran* [2017] UKUT 00488 IAC) he had no jurisdiction to hear evidence unless the respondent agreed. The respondent did not agree; no request for an adjournment was made and the judge proceeded to hear the appeal on protection grounds and Article 8 on the basis of evidence other than the new relationship.
3. The appellant sought and was granted permission to appeal the decision by the judge to treat the new relationship as a new matter.
4. Mr Bates provided Ms Farrell with a copy of *AK and IK (s85 NIAA 2002 -new matters) Turkey* [2019] UKUT 00067 (IAC). I drew her attention to *OA and Others (human rights; 'new matter' s120)* [2019] UKUT 65 and *Quaidoo (new matter: procedure/process)* [2018] UKUT 00087(IAC). I indicated that the case law appeared to make clear that the issue raised by the appellant at such a very late stage was a new matter and that unless the presenting officer agreed to it being litigated, the First-tier Tribunal had no jurisdiction to take it into account.
5. Ms Farrell made no submission to the contrary.
6. There is no error of law by the First-tier Tribunal judge declining to take the new matter into account in reaching his decision.
7. No other grounds of appeal were submitted.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision; the decision of the First-tier Tribunal judge dismissing the appellant's appeal on all grounds stands.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Date 8th April 2019



Upper Tribunal Judge Coker