



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10825/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 8 January 2019

Decision & Reasons Promulgated  
On 23 January 2019

Before

**UPPER TRIBUNAL JUDGE GLEESON**

Between

**NKA**  
[ANONYMITY ORDER MADE]

Appellant

and

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

Respondent

Representation:

For the appellant: Mr Osman Noor, Counsel appearing by Direct Access

For the respondent: Mr Nigel Bramble, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Anonymity order**

*The First-tier Tribunal made an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008: unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall identify the original appellant, whether directly or indirectly. This order applies to, amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.*

## **Decision and reasons**

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing his claim for international protection under the Refugee Convention, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Ghana.

## **First-tier Tribunal decision**

2. The appeal was dismissed by the First-tier Judge in the appellant's absence, following his failure to attend a case management review hearing. The substantive hearing had been converted to a case management review because the appellant was acting in person and had produced at least some evidence of health problems.
3. According to the First-tier Tribunal's computerised records, notice to that effect was sent out to the appellant on Friday 5 October 2018. On Tuesday 9 October 2018 it is the appellant's unchallenged evidence that he called the hearing centre to say that he had only just received the new notice of hearing (it was by then 11:30 a.m.) and that he would be unable to attend.
4. That information did not reach the Judge before he determined the appeal. He proceeded to determine it in the appellant's absence and to dismiss the appeal. The appellant appealed to the Upper Tribunal.

## **Permission to appeal**

5. Permission to appeal was granted by First-tier Judge Baker, on the basis that 'there [was] some evidence of the clerk receiving a telephone explanation and request from the appellant on 9<sup>th</sup> [October 2018] that the case be adjourned and reassurance given as to that'.

## **Rule 24 Reply**

6. The respondent did not file a Rule 24 Reply.
7. That is the basis on which this appeal came before the Upper Tribunal.

## **Upper Tribunal hearing**

8. At the hearing today, Mr Bramble indicated that he was not challenging the appellant's assertion that he did not receive the revised notice of hearing until the morning of the hearing. He accepted that the appellant had not had a fair hearing and that the appeal would have to be remitted to the First-tier Tribunal for a proper hearing.
9. Mr Noor confirmed that he would advise the appellant to seek legal aid to enable him to be represented for the First-tier Tribunal hearing and I emphasised strongly to the appellant the importance of appearing for his hearings.

10. I therefore set aside the decision of the First-tier Tribunal. This appeal will be reheard in the First-tier Tribunal with no findings of fact or credibility preserved.

## DECISION

11. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law. I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Date: 11 January 2019

Signed

*Judith AJC Gleeson*

Upper Tribunal Judge Gleeson