



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

Appeal Number: PA/10961/2017

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 31 October 2019  
Decision given orally at hearing**

**Decision & Reasons  
Promulgated  
On 20 November 2019**

**Before**

**THE HON. MR JUSTICE LANE, PRESIDENT  
MR C M G OCKELTON, VICE PRESIDENT**

**Between**

**BO  
(ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr C Holmes, Counsel, Citizens Advice Bureau (Bolton)

For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. We find, for the reasons elucidated by Underhill LJ in the decision of the Court of Appeal, that the decision of Judge Davies is flawed in law. That

decision was characterised by the Court of Appeal as very poorly reasoned. We would, with respect, concur with that view. The judge made a number of problematic findings, not least that the appellant had got certain documentation, which remains entirely unexplained. The judge also failed to find where the appellant came from.

2. The issue for us is whether or not any part of Judge Davies' findings should stand. Given that there has been a material failure in the fact-finding exercise I have just indicated, there would need to be good reasons shown for preserving any part of the findings of fact of the judge; in particular his findings on credibility. We do not consider that any good reasons have been demonstrated.
3. Accordingly, we set aside Judge Davies's decision and we remit the case to be re-heard in its entirety in the First-tier Tribunal by a judge other than Judge Davies. For the avoidance of doubt, no findings of fact are preserved. The decision to remit rather than to hold the case in the Upper Tribunal is predicated on the extent and nature of the fact-finding exercise, which is going to be necessary.

**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: 20 November 2019

The Hon. Mr Justice Lane  
President of the Upper Tribunal  
Immigration and Asylum Chamber