



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

Appeal Number: PA/11280/2017

**THE IMMIGRATION ACTS**

**Heard at the Royal Courts of Justice**

**On 25 February 2019**

**Decision & Reasons  
Promulgated**

**On 14<sup>th</sup> March 2019**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**U A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr A Bandegani, Counsel, instructed by Duncan Lewis & Co Solicitors

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Appellant. Breach of this order can be punished as a contempt of court. I make this order because the Appellant is an asylum seeker and publicity might create a risk to his safety.
2. This is an appeal by a citizen of Afghanistan against the decision of the First-tier Tribunal dismissing his appeal against the decision of the Secretary of State refusing him asylum and humanitarian protection.
3. The matter can be dealt with shortly because of an entirely realistic and responsible position taken by Mr Jarvis for the Secretary of State upon

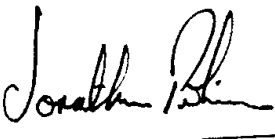
consideration of Counsel's grounds. The short point is that although this is in many ways a careful determination, the First-tier Tribunal Judge erred in her assessment of the medical evidence relied upon to show that the appellant has post-traumatic stress disorder and as a consequence an inability to record things in a correct chronology which can give an unfair appearance of dishonesty.

4. The appeal was largely lost because the appellant was disbelieved and I can see no answer to the contention that the First-tier Tribunal Judge, on this occasion, misdirected herself in consideration of the medical evidence and reached a conclusion that was not open to her at least for the reasons given. First-tier Tribunal Judges are not obliged to accept medical evidence but when the medical evidence is prima facie credible, which this certainly is, a proper reason must be given for rejecting it and the reason that was given here, namely that the doctor had simply accepted what the appellant had said uncritically, is not justified. That is not how medical practitioners work and particularly not how medical practitioners dealing with mental health issues work and the judge has not appreciated the value of the evidence and has reached an unsustainable conclusion.
5. This error impacts on all the other findings with the result that I must set aside the decision and order that the case be reheard. As a consequence of this decision there has been no proper consideration of the case and therefore the proper venue is the First-tier Tribunal.

**Notice of Decision**

6. The First-tier Tribunal erred. I set aside its decision and direct that the appeal be heard again in the First-tier Tribunal.

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal



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Dated 11 March 2019