



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: PA/12847/2018

**THE IMMIGRATION ACTS**

**Heard at Kings Court, North  
Shields**  
Decision delivered orally & typed  
**On: 3 May 2019**

**Decision & Reasons  
Promulgated**  
On: 28 May 2019

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD**

**Between**

**FAK  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mrs Brakaj of Iris Law Firm (Gateshead)

For the Respondent: Miss Young, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant's protection claim was heard and dismissed by First-tier Tribunal Judge Bircher. Permission to appeal against that decision was granted by First-tier Tribunal Judge L Murray by way of a decision dated 5 February 2019.
2. At the hearing before me today, Miss Young on behalf of the Respondent conceded that there had been a procedural error. The

grounds of appeal had identified that there were a large number of documents supporting the Appellant's claim, but that those documents were only considered once the Judge had already found the Appellant to be incredible in his account. When granting permission to appeal, Judge L Murray had said that the Judge had arguably fallen into the trap identified by the Court of Appeal in **Ex parte Virjon B** [2002] EWHC 1469

3. Both parties submitted that because there needed to complete new findings then the matter should be remitted to the First-tier Tribunal for re-hearing.
4. In view of the concession, properly made on behalf of the Respondent, I allow the appeal. There will be a re-hearing of the matter at the First-tier Tribunal (not before Judge Bircher). None of the current findings shall stand.

### **Notice of Decision**

- (1) There is a material error of law in the decision of First-tier Tribunal Judge Bircher and that decision is set aside in its entirety.
- (2) The First-tier Tribunal shall provide the further directions.

### **Anonymity**

I make an anonymity order.

### **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. 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: A Mahmood  
2019

Date: 3 May

Deputy Upper Tribunal Judge Mahmood