



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

Appeal Number: RP/00125/2018

THE IMMIGRATION ACTS

**Heard at North Shields
On 6th June 2019**

**Decision & Reasons Promulgated
On 10th June 2019**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**HN
(Anonymity Direction made)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Selway, instructed on behalf of the appellant

For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

I make an anonymity order pursuant to 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 his 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.

The background:

1. The appellant appeals with permission against the decision of the First-tier Tribunal promulgated on the 13th March 2019. He appealed against the decision of the respondent dated 5th June 2018 to effect a cessation of his refugee status under Article 1C (5) of the 1951 Refugee Convention and paragraph 339A(v) of the Immigration Rules. On the 7th August 2018 his protection and human rights claim was refused and the decision to treat him as liable to deportation was maintained.
2. His appeal came before First-tier Tribunal Judge (“the FtJ”) on the 8th February 2019. He dismissed the appeal in terms of the respondent's decision to cease refugee status and consequently concluded that the appellant was not entitled to protection under the Refugee Convention and/or Article 3 of the ECHR and dismissed his appeal on Article 8 grounds.
3. The Appellant applied for permission to appeal and Immigration Judge Froom granted permission on the 1st April 2019. It is agreed by the advocates that the decision demonstrates the making of an error on point of law based on the judge's assessment of his sexual orientation and the issues of risk on return to Afghanistan in the light of the decisions of *AS (Afghanistan) v SSHD* [2019] EWCA Civ 873
4. Pursuant to rule 40(3) of The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), the Upper Tribunal is not required to provide written reasons for its decision under paragraph 40(2)(a) of the Rules, where the decision is made with the consent of the parties (rule 40(3) (a)), or the parties have consented to the Upper Tribunal not giving written reasons (rule 40(3)(b)).
5. The requirements of sub-paragraphs 40(3)(a) and 40(3)(b) of the Rules are met. I am satisfied that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice.
6. I therefore set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed. It may be necessary to hold a case management review hearing to consider issues of further listing and whether it is necessary for the anonymity direction to continue.

Signed

Date: 6 /6/2019

Upper Tribunal Judge Reeds