



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

Appeal Number: PA/08583/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 3 December 2020**

**Decision & Reasons  
Promulgated  
On 22 December 2020**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**C K A (IRAQ)  
(ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms C Jaquiss, instructed by Wimbledon Solicitors (Merton Rd)  
For the Respondent: Mrs H Aboni, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Anonymity order**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of C K A who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.*

***Any failure to comply with this direction could give rise to contempt of court proceedings.***

## **Decision and reasons**

The appellant appeals with permission against the First-tier Judge's decision dated 12 November 2019 dismissing his appeal against the respondent's decision on 24 August 2019 to refuse him refugee protection, humanitarian protection or leave to remain in the United Kingdom on human rights grounds.

There are a number of significant errors in the judgment. At paragraph 29 the judge says this: "The appellant claims to fear non-state agents and his claim does not qualify for consideration under the Refugee Convention. I must therefore consider if he is at risk of serious harm or death and in need of humanitarian protection and under Article 3". That paragraph demonstrates the confused approach which the judge has made to the reasoning of this decision. A fear of non-state agents does not exclude a person from the protection of the Refugee Convention.

The question of humanitarian protection is only reached if there is no Refugee Convention claim upheld and the question of Article 3 should be the third matter to be considered along with any other human rights issues only if the Refugee Convention and humanitarian protection have both been found not to apply.

There are a number of other significant errors identified in the somewhat discursive grounds of appeal.

It suffices to say that the reasoning of this judgment is inadequate at a level which cannot be sustained and that accordingly there is no alternative but to set the decision aside and for it to be remade afresh in the First-tier Tribunal with no findings of credibility or fact preserved.

## **Conclusions**

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Signed [Judith AJC Gleeson](#)  
2020

Date: 8 December

Upper Tribunal Judge Gleeson