



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

Appeal Number: PA/10413/2019 (P)

**THE IMMIGRATION ACTS**

**Decision under Rule 34 Without a hearing  
24<sup>th</sup> June 2020**

**Decision & Reason Promulgated  
On 10<sup>th</sup> July 2020**

**Before**

**UPPER TRIBUNAL JUDGE COKER**

**Between**

**HA  
(anonymity order made)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DETERMINATION AND REASONS**

**Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant in this determination identified as HA. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings**

1. FtT Judge L Mensah dismissed HA's appeal against the refusal of his international protection and human rights claim for reasons set out in a decision promulgated on 8<sup>th</sup> January 2020. Permission to appeal was granted by FtT judge Osborne on 13<sup>th</sup> February 2020. Directions for the further conduct of the appeal were sent and, in the circumstances surrounding COVID 19, provision was made for the question of whether there was an error of law and if so

whether the decision of the FtT Judge should be set aside to be determined on the papers.

2. The appellant complied with directions; he had not been aware until the directions were sent that permission to appeal had been granted. He also sought to expand the grounds upon which he relied to include reliance on a CG case reported after the FtT had promulgated her decision. I do not grant the application to expand the grounds of appeal but, given my decision that there has been an error of law for the reasons below this is of no impact.
3. The respondent has not responded to the applicant's grounds and nor has she sought an extension of time.
4. I am satisfied that the submissions made on behalf of the appellant together with the papers before me are sufficient to enable me to be able to take a decision on whether there is an error of law in the decision of the FtT and if so whether the decision should be set aside, on the papers and without hearing oral submissions.

#### Error of law

5. The FtT Judge in this appeal has referred to the appellant in a number of places as a person with a wife and children. Although substantial parts of the decision do not refer to this and do consider the core basis of his claim, it is unsafe to find that her findings with regard to those core elements would have been the same had she not thought, incorrectly, that he had a wife and child. This is particularly so because she makes findings on documentation that flow from her adverse credibility findings on his underlying claim.
6. In these circumstances I am satisfied there is an error of law by the FtT such that I set aside the decision to be remade.
7. Given the scale of the findings that have to be made, it is going to be necessary for the appellant to give evidence and for findings on the whole of his claim to be made afresh. In these circumstances and in accordance with the Practice Direction I remit the appeal for hearing before the FtT.

#### **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 and remit the appeal to the FtT to be heard afresh, not before FtT Judge L Mensah.

Anonymity

The First-tier Tribunal made an order pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Jane Coker

Upper Tribunal Judge Coker

24<sup>th</sup> June 2020