



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

Appeal Number: PA/08071/2019

THE IMMIGRATION ACTS

**Decided on the papers under
rule 34**

**Decision & Reasons
Promulgated
On 14th December 2021**

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

**WU (AFGHANISTAN)
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. This appeal was due to come before me for a resumed hearing on 15 December 2021. Judge Coker had previously found that the FtT (Judge Cox) had erred in dismissing the appellant's appeal and had set aside that decision.
2. On 9 December 2021, the respondent sent an email to the Upper Tribunal in the following terms:

The above referenced case is due for a hearing on 15 December. The SSHD would like to apply under Procedure Rules Paragraph 17 for consent to withdraw the case. This is because the appellant is a national of Afghanistan and given the individual circumstances and the current country situation the refusal cannot be upheld. A material error in law was found on the basis that the FTJ did not adequately consider the evidence and make adequate findings, particular internal relocation to Kabul taking into account the appellant's mental health. In light of the evidence provided and the country situation it is

accepted that the appellant's appeal should be allowed, on the individual facts it would not be reasonable for the appellant to internally relocate to Kabul.

3. The appellant's representatives were contacted by the Upper Tribunal and confirmed, by email dated 10 December 2021, that the appellant was agreeable to the course of action proposed by the respondent.
4. Properly understood, the respondent's communication is not a request for the Upper Tribunal's consent to the withdrawal of her case. She was not the appellant before the Upper Tribunal and she does not seek to withdraw the decision under appeal. What she confirms, instead, is that she has no objection to the appellant's appeal being allowed on Refugee Convention grounds due to the particular facts of his case. In the circumstances, the proper course is for the appeal to be allowed on that basis.
5. There is no reason for the hearing on 15 December 2021 to proceed. The appellant has achieved by consent all that he could hope to achieve at a hearing. I am satisfied, in the circumstances, that it is fair and in accordance with the over-riding objective to make the decision in this appeal without a hearing. The appeal will accordingly be allowed and the hearing on Wednesday will be vacated.

Notice of Decision

The appeal is allowed on Refugee Convention grounds.

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 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.

M.J.Blundell

Judge of the Upper Tribunal
Immigration and Asylum Chamber

13 December 2021