



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

**Appeal Number:
UI-2021-000177; EA/01264/2020**

THE IMMIGRATION ACTS

**Heard at Field House
On the 27 July 2022**

**Decision & Reasons Promulgated
On the 15 September 2022**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

JAVAD ANWAR

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the appellant: None
For the respondent: Ms Cunha, Senior Home Office Presenting Officer

DECISION AND REASONS

1. At the beginning of the hearing Ms Cunha conceded that First-tier Tribunal (FTT) Judge Norris erred in law in declining to recuse herself at a hearing on 10 June 2021, after being told that the appellant had made a formal complaint arising out of her alleged treatment of him at an earlier hearing on 30 April 2021 (when she adjourned the hearing but reserved it to herself).
2. The letter of complaint was said to be attached to the appellant's grounds of appeal against the FTT's decision dismissing his appeal dated 22 June 2021, but was not initially available to me or Ms Cunha

until the appellant provided a copy at the hearing before me. Having considered that letter of complaint Ms Cunha maintained her concession that the appeal should be allowed and remitted to the FTT, to a judge other than Judge Norris.

3. It is regrettable that the appellant did not comply with the carefully drafted directions made by Upper Tribunal Judge Gill when granting permission to appeal in a decision dated 24 January 2022. However, I am satisfied that I have sufficient information to accept Ms Cunha's concession. Although an extant complaint per se does not necessarily require a judge to recuse herself, I am satisfied that in the particular circumstances of this case, fairness demanded Judge Norris's recusal. The appellant clearly held strongly felt misgivings regarding Judge Norris's approach to the earlier adjourned hearing which compelled him to lodge a relatively timely written complaint to the FTT, in which he requested the matter be re-listed before another judge. It is unclear whether that complaint was received by the FTT but it was not responded to. Although Judge Norris made it clear that she maintained an open mind regarding the appellant's case, the appellant held a justifiable concern about this in the light of inter alia, his unanswered complaint and Judge Norris's adverse observations regarding the credibility of his evidence regarding an adjournment application.
4. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the FTT.

Decision

5. The decision of the FTT involved the making of an error of law. Its decision cannot stand and is set aside.
6. The appeal shall be remade by the FTT, by a judge other than Judge Norris, on a de novo basis.

Signed: *Ms Melanie Plimmer*

Dated: 27 July 2022

Judge of the Upper Tribunal