



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/11710/2019**

**THE IMMIGRATION ACTS**

**Determined at Field House  
On the 14 January 2022**

**Decision & Reasons Promulgated  
On the 31 March 2022**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**A R S  
(ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

For the appellant: Mr Lingajothy, Duncan Ellis Solicitors  
For the respondent: Mr A Tan, Senior Home Office Presenting Officer

**DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE  
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**<sup>1</sup>

1. The appellant appeals with permission against the decision of First-tier Tribunal I A Ross promulgated on 12 May 2021.
2. It was agreed by the parties that the grounds of appeal were made out. In summary, the judge made adverse findings as to the appellant's credibility, findings which were challenged in the grounds as involving the

<sup>1</sup> Amended pursuant to Rule 42 of the Tribunal Procedure (Upper Tribunal) Rules 2008

making of an error of law in that the judge erred in his assessment of the appellant's testimony as he (a) failed to properly take into account in assessing credibility a medical report indicating he had been tortured, doing so only after reaching a negative conclusion; and, (b) failed to take into account that the appellant was a vulnerable witness.

3. In terms of remaking the decision, it is evident and both parties agree that the credibility findings are so flawed that none of the findings of fact are sustainable. Accordingly, I am satisfied that it would in all the circumstances be appropriate to set aside the decision in its entirety for it to be remade in the Upper Tribunal, given the history of this case.
4. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

### **Notice of Decision**

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. The appeal is to be remitted to the First-tier Tribunal<sup>2</sup>. For the avoidance of doubt none of the findings made are preserved.

Signed

Date: 14 March 2022<sup>3</sup>

Jeremy K H Rintoul  
Upper Tribunal Judge Rintoul

---

<sup>2</sup> Amended pursuant to Rule 42 of the Tribunal Procedure (Upper Tribunal) Rules 2008

<sup>3</sup> Amended pursuant to Rule 42 of the Tribunal Procedure (Upper Tribunal) Rules 2008