



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003874
First-tier Tribunal No:
PA/51610/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 28 November 2023

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

TDN
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The appellant was granted anonymity by Judge Perkins and that order remains in force. He is a Vietnamese national who was born on 10 February 1988. He appeals against the decision of First-tier Tribunal Judge Prudham with the permission of First-tier Tribunal Judge Karbani.
2. In granting permission, Judge Karbani noted that it was arguable that the judge had erred in going behind the acceptance in the refusal letter that the appellant had been detained in Vietnam. In a concise response to the grounds of appeal, the respondent accepted that the judge had erred in law with reference to the acceptances in the refusal letter.
3. Having noted the stance in the rule 24 response, Upper Tribunal Judge Perkins directed on 29 August 2023 that the parties should within ten days state whether they objected to the appeal to the Upper Tribunal being determined without a hearing and for the appeal to be remitted to the FtT for hearing afresh.
4. There has been no objection to the course proposed by Judge Perkins and I am satisfied that the appeal to the Upper Tribunal should be determined without a hearing, under rule 34.

5. Having considered the papers for myself, I am satisfied that the concession made in the rule 24 notice was properly made. Judge Prudham concluded at [38] that the appellant had not come to the adverse attention of the Vietnamese authorities, whereas it had been accepted in the refusal letter that he had been detained in 2015: [57] of the letter refers. I am satisfied that the judge erred in law in going behind that concession.
6. In the circumstances, the proper course is as proposed by Judge Perkins. The appeal will therefore be remitted to the FtT for consideration afresh by a judge other than Judge Prudham.

Notice of Decision

The appeal to the Upper Tribunal is allowed. The appeal is remitted to be heard de novo in the FtT.

M.J.Blundell

Judge of the Upper Tribunal
Immigration and Asylum Chamber

20 November 2023