



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

Appeal Number: PA/00933/2018

THE IMMIGRATION ACTS

Heard at Field House

On 15 March 2019

**Decision & Reasons
Promulgated
On 21 March 2019**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

[S K]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**DECISION OF THE UPPER TRIBUNAL
PURSUANT TO RULE 40(3)(a) OF
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse him leave to remain on international protection and human rights grounds.
2. Permission to appeal was granted on 5 March 2019 on the basis that the First-tier Judge had made the error identified in *Mibanga* in that he applied adverse credibility findings already reached to his assessment of the medical evidence relied upon by the applicant, rather than making an holistic decision on credibility with the assistance of the medical evidence.
3. By a Rule 24 Reply dated 13 March 2019, the respondent indicated that he does not oppose the application for permission to appeal and invited the

Upper Tribunal to determine the appeal by setting aside the decision of the First-tier Tribunal and remitting the appeal to the First-tier Tribunal for hearing afresh.

4. Pursuant to rule 40(3) of The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), the Upper Tribunal is not required to provide written reasons for its decision under paragraph 40(2)(a) of the Rules, where the decision is made with the consent of the parties (rule 40(3)(a)), or the parties have consented to the Upper Tribunal not giving written reasons (rule 40(3)(b)).
5. The requirements of sub-paragraphs 40(3)(a) and 40(3)(b) of the Rules are met. I am satisfied that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice.
6. I therefore set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Signed: [Judith A J C Gleeson](#)
2019

Date: 15 March

Upper Tribunal Judge Gleeson