



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

**Appeal Number: PA/00342/2020**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 8 December 2021**

**Decision & Reasons  
Promulgated**

**On 20 December 2021**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM**

**Between**

**JO  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr J Dhanji, Counsel instructed by Biljana & Co

For the Respondent: Ms A Everett, Home Office Presenting Officer

**DECISION AND REASONS**

**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 their 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.

1. The Appellant is a citizen of Afghanistan. His date of birth is 1 January 1997.
2. The Appellant was granted permission to appeal against the decision of First-tier Tribunal Judge Dean to dismiss his appeal on protection and human rights grounds (by Judge of the First-tier Tribunal Haria on 24 April 2020). The decision of the Secretary of State, against which the Appellant appealed, is 12 December 2019.
3. The Appellant is that he is from Langman Province in Afghanistan. His claim is that he is at risk from the Taliban because they accused his father of supporting the authorities. In addition, the authorities accused his father of supporting the Taliban. His father was killed in Spring 2015. The Appellant's case is that he will be targeted by the Taliban because of his imputed political opinion and perceived support of the authorities. Judge Dean dismissed the Appellant's appeal in a decision promulgated on 12 March 2020 following a hearing on 14 February 2020. The judge said that his starting point was the decision of First-tier Tribunal Judge Dearden dated 30 December 2018. Judge Dearden dismissed the Appellant's appeal on protection grounds. Judge Dean found that "on the totality of the evidence before me I find that the core of the Appellant's claim has not changed from the facts considered by Judge Dearden" (see paragraph 11).
4. Judge Dean found at paragraph 14 that:
  - "14. The facts of the Appellant's case as presented then are not materially different to those he put forward in this case. Moreover, apart from an updated witness statement and extremely brief oral evidence aimed at clarifying two issues, the Appellant relies on the same evidence to support this appeal. I therefore find that there is no evidence before me which could provide a properly reasoned basis for departing from Judge Dearden's decision on the core facts of the Appellant's protection claim.
  15. Therefore, based upon Judge Dearden's findings and conclusions, and in the absence of any fresh evidence, I find that the Appellant has failed to demonstrate to the required standard that he is of adverse interest to either the Taliban or the Afghan authorities because of his late father's perceived connection. I therefore find that he would not be at risk of persecution or serious harm on those grounds".
5. Despite the judge having found that the Appellant would not be at risk on return to his home area he went on to consider internal relocation to Kabul. The judge considered the Appellant's evidence that he has never been to Kabul, however the judge said at paragraph 20, "I find that this does not advance his claim to be at risk given that he has gained experience by travelling in a number of developed countries ...". The judge also found that he had experience of "living in urban areas in this

country". The judge found that the Appellant would not be perceived as "westernised" because his absence from Afghanistan was not long enough for him to lose social and cultural tradition of the country where he had spent most of his life. The judge said that the Appellant has not provided any specific evidence to demonstrate to the required standard that he would be at particular risk for that reason.

6. The judge found that the Appellant was an adult when he entered the UK in 2015 and that he would be returning to Afghanistan as an adult. The judge concluded that the Appellant would not be at risk of persecution or serious harm from the authorities or the Taliban in his home area (Laghman Province). The judge said that he had considered relocation applying AS (Safety of Kabul) Afghanistan CG [2018] UKUT 118 and went on to find, at paragraph 27, that there was no evidence that he "is anything other than fit and in good physical and mental health". The judge took into account that the Appellant has attended school in this country and that he comes from a farming background and that he has not demonstrated that he would be unable to take up low skilled work which might be available in Kabul. The judge also found that the Appellant has not demonstrated that there are particular risk factors for him.
7. The judge took into account evidence that the Appellant's maternal uncle organised his journey out of Afghanistan to the UK and the judge found that there "is no evidence before me that the uncle would be unable or unwilling to provide the Appellant with the means to live in Kabul and have access to shelter".
8. The judge concluded at, paragraph 29, that the Appellant had established that relocation would not be unduly harsh or unreasonable.

### **The Grounds of Appeal**

9. The first ground of appeal asserts that the judge failed to give adequate consideration to "new country information subsequent change in law". The second ground is that the judge did not consider the Appellant's appeal under Article 8.

### **Error of law**

10. At the hearing before me Ms Everett conceded on behalf of the SSHD that the First-tier Tribunal materially erred for the reason identified in ground 2. She also conceded that in the light of the current situation in Afghanistan, there would be very significant obstacles to integration and that I should allow the appeal under Article 8 ECHR. Mr Dhanji stated that he conceded that there was no material error of law in respect of ground 1. He agreed with Ms Everett in respect of ground 2.
11. I communicated the following at the hearing. The decision of the judge to dismiss the on asylum grounds is maintained. The decision of the judge to dismiss the appeal "on human rights grounds" is set aside, in so far as this

relates to Article 8 of ECHR. I remake the decision and allow the Appellant's appeal on Article 8 grounds.

**Notice of Decision**

The appeal is allowed under Article 8 ECHR.

Signed            Joanna McWilliam  
Upper Tribunal Judge McWilliam

Date 9 December 2021

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