



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

Appeal Number: PA/02064/2020

THE IMMIGRATION ACTS

**Heard at Field House
On 25 May 2022**

**Decision & Reasons Promulgated
On 9 August 2022**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**AN
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not present or represented

For the Respondent: Ms Nolan, Senior Presenting Officer

DECISION AND REASONS

1. By a decision promulgated on 21 December 2021, I set aside the decision of the First-tier Tribunal. My reasons were as follows:

The appellant is a male citizen of Afghanistan who was born in 1997. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 18 February 2020 refusing his claim for international protection. The First-tier Tribunal, in a decision promulgated on 9 December 2020, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.

At the adjourned initial hearing via Teams on 21 December 2021, Ms Aboni, who appeared for the Secretary of State, told me that the

respondent accepts that the First-tier Tribunal erred in law in its determination of the issue of internal flight within Afghanistan such that its decision falls to be set aside. I agree. At [43], the judge found that the appellant is a real risk on return to his home area (Kabul) for the extra-marital transgressions. At [44], the judge concludes his analysis by stating that, 'there was no evidence of vulnerabilities on the appellant's part. I find that it would not be unduly harsh for the appellant to relocate in Afghanistan.' That analysis is, with respect, not adequate as the Secretary of State now acknowledges. In addition to the conclusion lacking adequate supporting reasoning, the judge has made no attempt to identify where in Afghanistan the appellant may safely relocate, as Upper Tribunal Judge Hanson noted when granting permission.

I set aside the decision of the First-tier Tribunal. The findings as regards risk in the appellant's home area shall stand. The only issue is whether the appellant may relocate to Jalalabad, the area of Afghanistan identified by the Secretary of State in the refusal letter at [60].

Notice of Decision and Directions

- (i) The decision of the First-tier Tribunal is set aside.
- (ii) The findings of fact shall stand save as regards internal flight.
- (iii) The decision will be remade in the Upper Tribunal on the issue of internal flight to Jalalabad only.
- (iv) The parties may rely on new evidence provided that copies of any documentary evidence are filed at the Upper Tribunal and served on the other party no less than 10 days before the resumed hearing.
- (v) **Listing Directions: list at Field House for face to face for resumed hearing; before Upper Tribunal Judge Lane; first available date; Pushtu interpreter; 2 hours.**

2. The parties have now agreed that the decision should be remade allowing the appellant's appeal against the Secretary of State's refusal to grant him international protection. The parties agree that there is now no safe means by which the appellant can exercise the option of internal flight within Afghanistan.

Notice of Decision and Directions

I have remade the decision. The appellant's appeal against the decision of the Secretary of State is allowed on asylum and Article 3 ECHR grounds

Signed

Date 26 May 2022

Upper Tribunal Judge Lane

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.