



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

Appeal Number: PA/10766/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 14th December 2018**

**Decision & Reasons
Promulgated
On 24th January 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MASTER FS
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr S Walker, Home Office Presenting Officer
For the Respondent: Mr P Bonavero of Counsel, instructed by South West
London Law Centre

DECISION AND REASONS

FS is a citizen of Afghanistan. He sought international protection as a refugee. A decision was made by the Secretary of State to refuse that application and he appealed.

His appeal was heard in the First-tier Tribunal by Judge Blake on 30th August 2018. He found FS credible in every material particular, his case being based on a fear of the Taliban consequent upon his uncle having acted as an interpreter for US forces. Significantly in this case, FS had only been 15 years

of age when he arrived in the United Kingdom and there was medical evidence before the judge that FS suffered from psychiatric problems such that symptoms were “in keeping with the diagnosis of PTSD and depression”.

Judge Blake then went on to consider whether it would be possible for FS to relocate to Kabul. He dealt with that at paragraph 56. Judge Blake did not accept some of the expert evidence but gave reasons for it in that there was background material upon which he relied, justifying departure to from country guidance. I say that because that eventually was to be the basis upon which the Secretary of State was to bring this matter before the Upper Tribunal. In the event, the appeal was allowed by the First-tier Tribunal and FS was recognised as a refugee.

However, the Secretary of State was not content with that decision and by notice dated 19th September 2018 made application for permission to appeal to this Tribunal, relying on the headnote in the case of **AS (Safety of Kabul) Afghanistan CG [2018] UKUT 00118**, which at its headnote says:

“A person who is of lower level interest for the Taliban (i.e. not a senior government or security services official, or a spy) is not at a real risk of persecution from the Taliban in Kabul”.

The Secretary of State also relied on the case of **SG (Iraq) -v- SSHD [2012] EWCA Civ 940**, which is authority for the proposition that Tribunals should not depart from country guidance cases.

On 3rd October 2018 Judge Lambert granted permission to appeal and thus the matter comes here.

The Secretary of State was right to point to the headnote in the case of **AS** but was wrong not to go further in his consideration of the guidance. There is not only one paragraph in the headnote of **AS**. There are in fact eight. The country guidance in **AA (unattended children) Afghanistan CG [2012] UKUT** was affirmed and the Upper Tribunal made a number of observations which are relevant to this particular appeal. Firstly, that there is no bright line with respect to when somebody becomes an adult. There is not some magical change that occurs on a person’s 18th birthday. It follows that cases turn on their own particular facts and the country guidance is guidance pointing judges in a particular direction but inviting them to have regard to certain factors of which one is age.

Another factor to which regard is to be had is the age at which the person left Afghanistan. That is relevant because if they are younger they are less likely, so the guidance says, to be able to navigate the employment market on return and in relocation.

There is an additional factor in this case, which, Mr Walker rightly concedes, was significant, and that is the health issue of this particular Respondent (Appellant in the First-tier Tribunal), which was by itself, in my judgment, sufficient reason for the judge to find that it would be unduly harsh for FS internally to relocate once it had been accepted that he had lost contact with

his family and that he had taken all reasonable steps including the good offices of the Red Cross in an attempt to reconnect with them.

Mr Walker properly did not push his appeal very hard but did not concede it. Nevertheless, in my judgment, the fact that he did not push too hard reflects a realistic approach to the appeal that has been brought. I have no hesitation whatsoever in finding that there is no material error of law in this appeal and it is dismissed.

Decision

I dismiss the appeal to the Upper Tribunal. The decision of the First-tier Tribunal is affirmed.

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 his 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.

Signed

Date 14 January 2019

Deputy Upper Tribunal Judge Zucker