



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

Appeal Number: PA/12589/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 8 October 2019**

**Decision & Reasons Promulgated  
On 9 October 2019**

**Before**

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

**O A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the Appellant or members of her family. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.**

**Representation:**

For the Appellant: Ms C Meredith, Counsel, instructed by Birnberg Peirce and Partners

For the Respondent: Ms A Holmes, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant challenges the decision of First-tier Tribunal Judge Herbert, promulgated on 7 June 2019, in which he dismissed the Appellant's appeal against the Respondent's refusal of her protection and human rights claims.
2. Upon considering the papers, I deemed it appropriate to direct the Respondent to provide a rule 24 response. Such a response was filed with the Upper Tribunal on 3 October 2019. It contains the following statement:

"The respondent does not oppose the appellant's application for permission to appeal and invites the Tribunal to remit the matter to the First-tier Tribunal, to be heard afresh before a judge other than First-tier Tribunal Judge Herbert."
3. At the hearing before me it was confirmed that this passage represented an acceptance that the First-tier Tribunal had materially erred in law and that the matter should be remitted for a complete re-hearing.
4. On this unopposed basis, I conclude that the First-tier Tribunal's decision contains material errors of law. I set that decision aside and remit the appeal to the First-tier Tribunal.
5. Ordinarily, where both parties are agreed that a decision of the First-tier Tribunal is flawed and should be remitted, nothing further need be said about that decision. However, in the circumstances of this case, it is appropriate to make the following observations.
6. First, the errors of law were quite clear on the face of the decision. This is a case in which it might have been appropriate for the First-tier Tribunal Judge considering the permission application to have undertaken a review of the decision pursuant to rule 35 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.
7. Second, a more proactive approach by the Respondent to this case once permission had been granted might well have led to a more expeditious resolution of the error of law issue, quite possibly without the need to have had a hearing at all. Instead, the rule 24 response was only obtained following a specific direction issued by the Upper Tribunal.
8. Third, the decision of Judge Herbert contains a relatively significant number of typographical, grammatical, and factual errors, examples of which are set out in paragraphs 19-21 of the Appellant's grounds of appeal. I cannot be sure of course, but it might be the case that a draft version of the decision was sent for promulgation in error. If this was not the case, there is merit to the points made in paragraphs 21-22 of the grounds, which, in summary form, complain that the errors *may* be perceived as indicating a lack of care and/or anxious scrutiny of the Appellant's case.
9. Fourth, Judge Herbert did not make an anonymity direction in this case despite a request for one being made in the Reply to an IAC Notice of

Hearing, dated 12 November 2018 and a confirmation by the First-tier Tribunal in the Directions compiled at the Case Management Review stage this would be done. It is unclear why no order was made by the Judge.

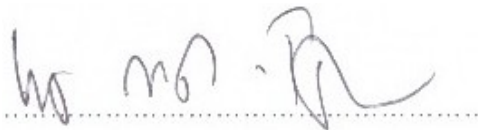
10. Fifth, at the hearing before me Ms Meredith confirmed that the Appellant's representatives are seeking to obtain a medico-legal report in preparation for the remitted hearing. In respect of the listing of the remitted hearing, I advised that it would be better for the representatives to liaise directly with the Taylor House hearing centre about appropriate timeframes.

### **Notice of Decision**

**The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.**

**I set aside the decision of the First-tier Tribunal.**

**I remit the case to the First-tier Tribunal.**



Signed  
Upper Tribunal Judge Norton-Taylor

Date: 8 October 2019

### **Directions to the First-tier Tribunal**

1. This appeal is remitted for a complete re-hearing with no findings of fact preserved;
2. The remitted hearing shall not be conducted by First-tier Tribunal Judge Herbert;
3. The time estimate for the remitted hearing is 4 hours;
4. A Turkish interpreter will be required for the remitted hearing.

### **Directions to the parties**

1. The Appellant's representative shall, no later than 14 days before the remitted hearing, file with the First-tier Tribunal and serve on the Respondent a consolidated bundle of all evidence relied upon;
2. The Respondent shall, no later 7 days before the remitted hearing, file with the First-tier Tribunal and serve on the Appellant any further evidence relied upon.