



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

Appeal Number: PA/07521/2019

THE IMMIGRATION ACTS

**Decided on the papers
On 20 March 2020**

**Decision & Reasons Promulgated
On 21 April 2020**

Before

UPPER TRIBUNAL JUDGE SMITH

Between

**A D
[ANONYMITY DIRECTION MADE]**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The Appellant appeals against a decision of First-tier Tribunal Judge Row promulgated on 15 October 2019 (“the Decision”), dismissing her appeal against the Respondent’s decision dated 23 July 2019 refusing her protection claim.
2. Permission to appeal was refused by First-tier Tribunal Judge Grant on 3 January 2020 but granted by Upper Tribunal Judge Smith (no relation) on 11 February 2020 in the following terms:

“1. The appellant had been accepted to be a victim of trafficking by the Competent Authority. Although the judge did not have a copy of the conclusive grounds decision, and did not know the reasoning adopted by the competent authority (see [13], [32], [56]), arguably he should only have departed from that assessment if satisfied that the decision was irrational: see MS (Pakistan) v Secretary of State for the Home Department [2018] EWCA Civ 594. Arguably, as judge was

unable to engage in any analysis as to whether the Competent Authority's decision was irrational (for he had not been furnished with a copy), it was arguably not open to him to conclude that the appellant was *not* a victim of trafficking. The judge's reasoning at [56] is arguably confused, as the judge attempts to draw a distinction between negative and positive conclusive grounds decisions, yet arguably fails to make sense when doing so: "[the competent authority's positive] *decision is not binding on me in the same way that if the competent authority had made a finding that the appellant had not been trafficked that decision would not be binding on me either.*"

2. Arguably, the judge should have considered the impact that the appellant's trauma as a victim of trafficking would have had upon her ability to give an account upon her arrival in the United Kingdom."
3. On 26 February 2020, the Respondent filed a Rule 24 Reply indicating that she did not oppose the Appellant's "application for permission" [sic] "on the basis that the FTT should have had the conclusive grounds before it to decide whether or not it was irrational and invites the Tribunal to remit the matter back to the FTT for a de novo hearing".
4. By a decision sent on 28 February 2020, UTJ Allen proposed that, unless submissions to the contrary were received from either party within fourteen days of that date, the matter would be remitted to the First-tier Tribunal for a de novo hearing. No submissions have been received. Accordingly, I am satisfied that the Decision contains an error of law and I set it aside. I remit the appeal to the First-tier Tribunal for a de novo hearing before a Judge other than Judge Row.

Decision

The decision of First-tier Tribunal Judge Row promulgated on 15 October 2019 discloses an error of law. I therefore set aside the decision. I remit the appeal to the First-tier Tribunal for a de novo hearing before a Judge other than Judge Row.

Signed



Dated: 20 March 2020

Upper Tribunal Judge Smith