



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

Appeal Number: PA/05123/2019

THE IMMIGRATION ACTS

Heard on: 3rd November 2021

Decision & Reasons

Promulgated

**At: Manchester Civil Justice Centre (remote)
2021**

On: 3rd November

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**BJ
(anonymity direction made)**

Appellant

and

Secretary of State for the Home Department

Respondent

**For the Appellant:
Chambers**

Mr Timson, Counsel instructed by Crystal

**For the Respondent: Mr McVeety, Senior Home Office Presenting
Officer**

DECISION AND REASONS

1. The Appellant is from the Occupied Palestinian Territories, born in 1983. He seeks protection, and/or leave on human rights grounds.

2. The salient history of this matter is as follows.
3. The Appellant is known to have been in the United Kingdom since at least July 2007, when he first claimed asylum. He did not attend an interview, and so that claim was rejected for non-compliance. In September 2011 and February 2012 he lodged further submissions, but the Respondent refused to treat these as a fresh claim. A third set of submissions was accepted as a fresh claim in 2018; they were refused on the 10th May 2019. On the 8th August 2019 the Appellant's appeal against that refusal was dismissed by First-tier Tribunal AJ Parker. The Appellant's then representatives applied for permission to appeal which was granted on the 24th December 2019 by First-tier Tribunal Judge Bulpitt. The matter came before Upper Tribunal Judge Plimmer who by her decision dated the 4th March 2020 set the decision of Judge Parker aside. The errors of law identified were:
 - i) That the decision betrayed a lack of anxious scrutiny;
 - ii) There was no justification for the finding that the Appellant had told a "completely different story" to the account originally advanced. On a proper reading the Appellant had been consistent;
 - iii) Insofar as the Appellant had not given specific details in his screening interview this was understandable given the nature of that interview and there it is an established principle that caution should be exercised before drawing adverse inference from omissions in what is a very brief pro-forma exercise.
4. Judge Plimmer directed that the decision in the appeal be entirely re-made, and this is how the appeal now comes before me.
5. Mr Timson and Mr McVeety very helpfully discussed the case before the hearing started. Having done so, two matters became apparent. The first was that Mr Timson, and those who instruct him, had only recently come on record and had not yet had time to prepared a consolidated bundle, or to draft a comprehensive witness statement. The second was that contrary to the position as it appeared before Judge Plimmer, the Secretary of State does in fact have extensive cross examination for the Appellant. In light of these two matters, the parties made a joint application for this matter to be remitted so that it can be heard in the First-tier Tribunal. There were three advantages to such a remittal. It would give the Appellant's new representatives time to prepare the bundle. There was now likely to be extensive fact finding required, thus saving Upper Tribunal court time. Third, and importantly, it would put the Appellant back in the position he was in before the hearing before Judge Parker. That decision having been set aside *inter alia* for a lack of anxious scrutiny

it was important, as a matter of fairness, that the Appellant had the opportunity to put his case squarely before the First-tier Tribunal.

6. For all of these reasons I agree that it would be in the interests of justice to remit the matter to be heard *de novo* in the First-tier Tribunal by a Judge other than Judge AJ Parker.

Anonymity

7. This a claim for protection. Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders I therefore consider it appropriate to make an order in the following terms:

“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 to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

Decisions and Directions

8. The decision of the First-tier Tribunal is set aside in its entirety.
9. The decision in the appeal is to be remade in the First-tier Tribunal by a judge other than Judge AJ Parker.
10. The Appellant must, within 28 days of this decision, file and serve a consolidated bundle and witness statement dealing with all issues arising.
11. The case should be listed in Manchester on the first available date after the 15th December 2021. An Arabic (Middle Eastern) interpreter should be provided.
12. There is an order for anonymity.

Upper Tribunal Judge Bruce
3rd November

2021