Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: HU/23473/2016**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 27 February 2018	**On 11 May 2018**

Before

THE HONOURABLE MR JUSTICE NICKLIN
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

JOHNSON BABATUNDE AKILO
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Al-Rashid Counsel
For the Respondent: Mr T Wilding, Home Office Presenting Officer

DECISION AND REASONS

1. This is Mr Akilo's appeal against the refusal of First-tier Tribunal Judge Devittie to allow his appeal against the decision of the Secretary of State on 4 October 2016 not to revoke a deportation order under Section 5(2) of the Immigration Act 1971. Mr Akilo is a Nigerian citizen. He is now 49. He has a long immigration history. He arrived in the UK in 1995 and originally claimed asylum. That claim was unsuccessful, ultimately being refused by the First-tier Tribunal on 30 July 1998.

2. Subsequent to that decision, Mr Akilo has been removed or deported on no fewer than four occasions. He was removed on 31 July 1998. He was deported on 5 August

2004. He was deported again on 14 November 2008 and then finally deported on 1 October 2010. In relation to that last deportation, Mr Akilo returned to the UK in December 2010, i.e. within two months of having been deported. He is therefore in breach of his deportation order.

3. In the decision letter the Secretary of State refused to revoke the deportation. The letter summarised –

> "(1) Your client has committed serious offences in the UK for which he received custodial sentences, in particular it is noted that your client was initially convicted on 2 January 2001 and was last convicted on 23 August 2016. He has received four convictions for five offences. These have been five fraud and kindred offences. According to the PNC obtained on 12 September 2016 your client attended South Essex Magistrates on 25 August. He attended in relation to the following charges – making a false representation to make gain for self or another or cause loss to other, expose other to risk. He was remanded on conditional bail. Ultimately Mr Akilo was given a community order in relation to the offence.
>
> (2) Your client has no leave to remain in the UK and on 25 May 2004 he was served with a signed deportation order.
>
> (3) Your client has demonstrated a blatant disregard for the UK immigration laws, in particular it is noted that as stated above your client has a signed deportation order against him. In view of the deportation order he was deported from the UK on the following dates, 5 August 2004, 14 November 2008 and 1 October 2010. On each occasion he has illegally returned to the UK in breach of the deportation order in order to reside with his partner and children. It is noted that your client has re-offended each time he returned to the UK."

It is difficult to dissent from that last paragraph.

4. The decision of the Judge can be put quite shortly. He set out the immigration history and the fact of the various deportation orders. He set out the relevant provisions of the Immigration Rules, in particular 390A:

> 390A. Where paragraph 398 applies the Secretary of State will consider whether paragraph 399 or 399A applies and if it does not, it will only be in exceptional circumstances that the public interest in maintaining the deportation order will be outweighed by the factors.
>
> 391. In the case of a person who has been deported following conviction for a criminal offence, the continuation of a deportation order against that person will be the proper course:
>
> (a) in the case of a conviction for an offence for which the person was sentenced to a period of imprisonment of less than 4 years, unless 10 years have elapsed since the making of the deportation order when, if an application for revocation is received,

consideration will be given on a case by case basis to whether the deportation order should be maintained…

unless… the continuation would be contrary to the Human Rights Convention or the Convention on Protocol Relating to the Status of Refugees, or there are other exceptional circumstances that mean the continuation is outweighed by compelling factors.

A398. These rules apply where –

(b) a foreign criminal applies for a deportation order made against him to be revoked."

398. Where a person claims that their deportation would be contrary to the UK's obligations under Article 8 of the Human Rights Convention, and

(a) …

(b) the deportation of the person from the UK is conducive to the public good and in the public interest because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 4 years but at least 12 months…

399. This paragraph applies where paragraph 398 (b) or (c) applies if –

(a) the person has a genuine and subsisting parental relationship with a child under the age of 18 years who is in the UK, and

(i) the child is a British Citizen; or

(ii) the child has lived in the UK continuously for at least the 7 years immediately preceding the date of the immigration decision; and in either case

(a) it would be unduly harsh for the child to live in the country to which the person is to be deported; and

(b) it would be unduly harsh for the child to remain in the UK without the person who is to be deported; or

(b) the person has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen or settled in the UK, and

(i) The relationship was formed at a time when the person (deportee) was in the UK lawfully and their immigration status was not precarious; and

(ii) it would be unduly harsh for that partner to live in the country to which the person is to be deported, because of compelling circumstances over and above those described in paragraph EX.2. of Appendix FM; and

(iii) it would be unduly harsh for that partner to remain in the UK without the person who is to be deported.

399A. This paragraph applies where paragraph 398(b) or (c) applies if –

(a) the person has been lawfully resident in the UK for most of his life; and

(b) he is socially and culturally integrated in the UK; and

(c) it would be very significant obstacles to his integration into the country to which it is proposed he is deported."

399D. Where a foreign criminal has been deported and enters the United Kingdom in breach of a deportation order enforcement of that deportation order is in the public interest and will be implemented unless there are very exceptional circumstances.

7. In paragraphs 5 through to 8 of his judgment, the Judge set out the evidence that he had heard including evidence from the appellant and from the appellant's stepdaughter. He read reports that had been prepared on the appellant's son, David, who is was then about 4 years old and who had an autistic spectrum disorder. Complaint is made by Mr Al-Rashid for the appellant that the Judge only dealt with the appellant's spouse's evidence very shortly at paragraph 8 where he said the appellant's spouse had provided a witness statement and that she had given oral evidence as set out in the Record of Proceedings. Criticism is made that the Judge has not set out what it was that the appellant's spouse had said in her evidence. In light of that alleged failure we asked Mr Al-Rashid to give us an indication of the evidence that was relied upon. He has not been able to produce the witness statement that was before the Judge but what he has done is provide us with a witness statement from the appellant's spouse dated 21 February 2018 that has been prepared for the purposes of this appeal.

8. The material parts of this to which we have been referred are as follows:

"(5) However, our main issue in the family is the health condition of our son David, who is now five years old. His behaviour has been very 'odd' from an early age, but it was only in April 2016 that he was formally diagnosed with autism; he now attends a special school (I refer to the letter from his Head Teacher dated 21st February 2018). David's father is the main person in his life and there is a fantastic and extremely close relationship between them, way beyond what normally exists between a five-year old and their father. David responds positively only to his father. When he is behaving in a difficult manner, it is only Johnson who can calm him down and bring his behaviour back to normal. Even when I am around, the main carer for David is Johnson due to their especially close bond.

...

(8) David would be very distressed with his father's absence. I fear that his challenging behaviour will worsen, as I and his sisters find it difficult to

control him once he becomes upset and distressed. David may become very isolated as I will be unable to take him out frequently due to the demanding nature of all my other commitments. This would have a detrimental effect on David's social skills which are already severely impaired, and thus worsen his condition. I truly believe it will be harmful to David's health if his father were not around to support him in the way that he does. I would describe their relationship as quite unique and special.

(9) It would be virtually impossible for me to provide both financial and emotional care for my children. Due to me being the sole bread winner, my working life is very demanding and stressful, so Johnson provides the physical and emotional care for the children. Without him, I fear our children will feel unloved and may become rebellious, as I will be unable to provide sufficient emotional and physical care, as well as work full time. I will be unable to attend parents' evenings and my children may have to stop their extra-curricular activities as I will be unable to take them. Johnson does all these things. If he is not present, I would have to decide between providing financial or emotional care, which is a terrible decision which would cause harm to my children either way.

(10) David's world would fall apart if his father left him. He will start displaying very challenging behaviour, his relationship with others will become fragmented, he will become frustrated both mentally and emotionally as he will not understand what has happened to his father, nor would he communicate his needs. He will continuously be in turmoil. I fear his physical health will deteriorate as he only lets his father feed him. All this would affect the other children too, and I worry that our family would become seriously destabilised."

9. We are prepared to accept that evidence along those lines was given by the appellant's spouse at the hearing in the First-tier Tribunal. Mr Al-Rashid says that the appeal statement is more detailed, but it contains the gist of evidence that was heard by the First-tier Tribunal Judge.

10. The Judge considered the various factual issues that he was required to under the Immigration Rules and our attention has been drawn by Mr Al-Rashid to paragraph 11(d) of the Judgment in which the Judge found that the best interests of all the children would be for the appellant to remain in the United Kingdom in order that he continues to play a role in their lives. He said: "*I place particular emphasis on the interests of David who was 4 years of age and I recognise that the report from Social Services would seem to indicate, albeit not expressly, that his father's continuing support in David's treatment plans would be important for his overall development*". In subparagraph (vii) of paragraph 11, the Judge said:

"In my opinion the appeal turns largely on a consideration of the best interests of the young boy David. The Appellant's commitment to his children's welfare and in particular to his young son David does not enjoy my full confidence. There is an extent to which, in my view, the Appellant has seen fit to take maximum advantage of the condition of his son, in order to

> create a stronger basis for being granted leave to remain, notwithstanding his adverse immigration history."

The Judge provided reasons for reaching that conclusion. In subparagraph (viii):

> "The Appellant's son David, does receive comprehensive support from Social Services and these are ongoing. His mother plays a fully supportive role. I am not persuaded that the Appellant's absence would significantly hinder the provision of the quality of these services. There is certainly no categorical statement from Social Services on the impact of the absence of David's father from his life. Having said that, I do not wish to underestimate the difficulty of this decision – the refusal of revocation would mean that the Appellant would not feature in the life of David. I do not accept that it follows that if this Appellant were granted leave to remain, he would continue to be fully committed to his son's treatment plans. I do accept however that he would play some role, be it a limited one. It is clear therefore that the best interests of David dictate that this Appellant be allowed to remain in the United Kingdom."

11. Mr Al-Rashid points to the two findings that the Judge made that it would be in the best interests of David for the appellant to be allowed to remain in the United Kingdom as being significant factors that ought to lead the Tribunal to allow this appeal. That is not however determinative of the matter. The best interests of any children were just a factor that the Judge had to consider. In paragraph 12 the Judge went on to say this:

> "I have therefore for the reasons I have set out come to the conclusion that it would not be unduly harsh for the appellant's children and in particular David, to remain in the UK without him. It is not the best outcome for David, but that is what deportation does, and in particular in cases such as this, where there are very compelling public interest factors arising from the appellant's repeated and systematic disdain of previous Deportation Orders. I find that there are no exceptional circumstances that outweigh the public interest."

12. The Judge is criticised by Mr Al-Rashid for addressing the unduly harsh question. That of course is a feature of paragraph 399(a) and (b), particularly (a) in this instance, in relation to the impact of deportation on a relevant child and the consideration must be given at that stage to whether in all the circumstances, and particularly measured against the offending of the appellant, it would be unduly harsh on the child for the parent to be removed and the child to remain in the United Kingdom without him.

13. It is not suggested that the Judge was wrong to reach the conclusion that there were very compelling public interest factors in favour of deportation arising from the appellant's repeated and systematic breaches of previous deportation orders. However, three basic complaints are made.

    (1) First, that the Judge has not properly factored in to his equation the impact on David;

(2) Second, delay;

(3) Third, that there was here a ***Zambrano*** point which the Judge failed properly to consider (***Ruiz Zambrano -v- Office National de l'Emploi (ONEm)*** **[2012] QB 265**; that if the Appellant is deported then it would mean, practically, that David would have to leave the United Kingdom as well).

14. The first two points can be disposed of quickly. The Judge, in the passages we have already quoted, clearly assessed the impact that the deportation of the Appellant would have on David. The point on delay is a bad one. Little weight is to be attached to the development of a family life in the UK whilst a person is here illegally. That must be even more so in cases where the person is present in the UK as a result of breaches of deportation orders. There are some cases in which an appellant is able to establish that the Defendant has essentially sat on her hands for a substantial period before moving to deport someone. That is certainly not the case here.

15. Turning to ***Zambrano*** it was submitted before the Judge, applying the principle in ***Chavez-Vilchez -v- Raad van Bestuur van de Sociale Verzekeringsbank*** **[2018] QB 103**, it was wrong of the Judge to fail to conclude that the effect of the deportation of the appellant would practically mean that David would have to leave the United Kingdom as well. I have been referred to paragraph 72 in ***Chavez-Vilchez***:

> "Article 20 TFEU must be interpreted as meaning that for the purposes of assessing whether a child who is a Union citizen would be compelled to leave the territory of the European Union as a whole and thereby deprived of the genuine enjoyment of the substance of the rights conferred on him by that article is the child's third-country national parent were refused a right of residence in the Member State concerned, the fact that the other parents, who is a Union citizen, is actually able and willing to assume sole responsibility for the primary day-to-day care of the child is a relevant factor, but it is not in itself a sufficient ground for a conclusion that there is not, between third-country national parent and the child, such a relationship of dependency that the child would indeed be so compelled were there to be such a refusal of a right of residence. Such an assessment must take into account, in the best interests of the child concerned, all the specific circumstances, including the age of the child, the child's physical and emotional development, the extent of his emotional ties both to the Union citizen parent and to the third-country national parents, and the risks which separation from the latter might entail for the child's equilibrium."

16. On behalf of the Secretary of State we have been referred by Mr Wilding to various domestic authorities touching upon the ***Zambrano*** and ***Chavez-Vilchez*** lines of authority. He relies upon a passage from ***Patel -v- SSHD*** **[2017] EWCA Civ 2028** (quoted in ***NP -v- SSHD*** **[2017] EWCA Civ 2018**) in which the Court of Appeal said:

> [74] It follows in my view ***Chavez-Vilchez*** does not represent any kind of sea-change to the fundamental approach to be taken. It does not mean that English reported cases implementing ***Zambrano*** but predating ***Chavez-Vilchez*** (such as ***Harrison*** and ***Sanneh***) hold diminished authority.

> [75] In both Shah and Bourouisa there is impressive evidence of the strength of family life, and of the determination of the British citizen mother (in each case) to stay with the family unit and move abroad, if the husband and father must leave. Every sensible person would wish to honour such an impulse. However, recognition of that does not alter the fact that however hard such a choice may be, it is a choice, not a necessity, not compulsion. In my judgment the evidence in each of these two cases is clear that were the British parent to remain, they would be able to care for the children concerned perfectly well. The child citizen would be under no compulsion to leave the EU.

17. We have also been referred to the decision of ***SSHD -v- VM (Jamaica)*** **[2017] EWCA Civ 255**:

> [55] To recap, the facts in the case before us are that the father, VM, is a third country national facing deportation; the mother, KB, is a British citizen who can remain in the UK if she so chooses; the three dependent young children are British citizens who enjoy an active family life with both the father and the mother, but could remain in the UK if the mother chooses to stay here.
>
> [56] In these circumstances, the deportation of the father does not automatically entail that the children would have to leave the UK (and EU) with him, on the footing that there would be no family member with a legal right to be in the UK who would be able to care for them in the UK. So the situation is different from that in ***Ruiz Zambrano***.
>
> [57] Rather than a legal impossibility of remaining in the UK, the family would face a difficult practical choice whether to separate (with the mother and children remaining in the UK, in which case there would be no infringement of their EU citizenship rights) or to leave and go to Jamaica as a family unit. This is the situation addressed in ***Dereci*** **[2011] ECR I-11315** and in domestic authority.
>
> [58] The facts in ***Dereci*** concerned a Turkish national who entered Austria illegally and married an Austrian national by whom he had three children who were also Austrian nationals and were minors; Mr Dereci had his application for a residence permit in Austria rejected and was made subject to orders for expulsion and removal from Austria: see [24] and [27]. The question arose, amongst others, whether Mr Dereci was entitled to be granted a residence permit in Austria by reason of his relationship with his wife and children, who were all Austrian nationals with EU citizenship, by virtue of Article 20 TFEU and the principle in ***Ruiz Zambrano***. In its judgment the CJEU said this at [63]-[68]:
>
> > "[63] As nationals of a Member State, family members of the applicants in the main proceedings enjoy the status of Union citizens under art.20(1) TFEU and may therefore rely on the rights pertaining to that status, including against their Member State of origin (see ***McCarthy*** **[2011] 3 CMLR 10** at [48]).

> [64] On this basis, the Court has held that art.20 TFEU precludes national measures which have the effect of depriving Union citizens of the genuine enjoyment of the substance of the rights conferred by virtue of that status (see ***Ruiz Zambrano*** … [42]).
>
> [65] Indeed, in the case leading to that judgment, the question arose as to whether a refusal to grant a right of residence to a third country national with dependent minor children in the Member State where those children are nationals and reside and a refusal to grant such a person a work permit have such an effect. The Court considered in particular that such a refusal would lead to a situation where those children, who are citizens of the Union, would have to leave the territory of the Union in order to accompany their parents. In those circumstances, those citizens of the Union would, in fact, be unable to exercise the substance of the rights conferred on them by virtue of their status as citizens of the Union (see ***Ruiz Zambrano*** … [43] and [44]).
>
> [66] It follows that the criterion relating to the denial of the genuine enjoyment of the substance of the rights conferred by virtue of EU citizen status refers to situations in which the Union citizen has, in fact, to leave not only the territory of the Member State of which he is a national but also the territory of the Union as a whole.
>
> [67] That criterion is specific in character inasmuch as it relates to situations in which, although subordinate legislation on the right of residence of third country nationals is not applicable, a right of residence may not, exceptionally, be refused to a third country national, who is a family member of a Member State national, as the effectiveness of Union citizenship enjoyed by that national would otherwise be undermined.
>
> [68] Consequently, the mere fact that it might appear desirable to a national of a Member State, for economic reasons or in order to keep his family together in the territory of the Union, for the members of his family who do not have the nationality of a Member State to be able to reside with him in the territory of the Union, is not sufficient in itself to support the view that the Union citizen will be forced to leave Union territory if such a right is not granted."

[59] Thus the CJEU ruled that the facts that the family wished to stay together in Austria and otherwise faced a difficult choice of either leaving Austria (and the EU) together in order to preserve the family unit or splitting up (with the mother and children remaining in Austria, as they were entitled to do) was not sufficient to generate a right under EU law for the father to remain in Austria, parasitic upon the rights of his wife or children as EU citizens. Clearly, depending on the family

circumstances and the strength of the ties between them, the practical outcome might well be that the wife and children would decide to accompany Mr Dereci to live in Turkey.

[60] On this reasoning, VM has no claim to remain in the UK as a result of the citizenship rights in EU law of his wife and children. If he is deported to Jamaica, KB and the children (with KB deciding for them) will face a difficult choice whether to relocate there with him or remain in the UK without him. But the fact that they will be confronted with that choice, and might in practice feel compelled to go with him, does not engage EU rights in a way which creates a right under EU law for VM to remain in the UK. As this court held in ***FZ (China) -v- Secretary of State for the Home Department*** **[2015] EWCA Civ 550**, following ***Dereci*** and the decision in ***O, S and L*** (at paras. [42]-[44] of the Advocate General's Opinion and para. [56] of the judgment), "*the critical question is whether there is an entire dependency of the relevant child on the person who is refused a residence permit or who is being deported*" (see paras. [14]-[19], in particular at [19]). In the present case there is no "*entire dependency*" of AB, KSM and KDM on VM, in the requisite sense, because they could remain in the UK with their mother, KB, who as a British citizen herself has a right to be here.

[61] The analysis in *FZ (China)* is consistent with the guidance given by the Supreme Court in respect of the application of ***Dereci*** in ***R (Agyarko) -v- Secretary of State for the Home Department*** **[2017] UKSC 11**, at [61]-[67]. The Supreme Court distinguished the situation in ***Ruiz Zambrano*** - which concerned the refusal of a right of residence and a work permit in a member state to the third-country parents of dependent minor children who were citizens of that state, which had "*the inevitable consequence*" that the parents would have to leave the EU and the children would have to accompany their parents - from that in ***Dereci***, in which "*the same relationship of complete dependence*" between the EU citizen (the wife and children in the *Dereci* case) and the third country national (Mr Dereci) was not present, where the argument based on Article 20 TFEU and the EU citizenship rights of the wife and children was rejected: see [64]-[67] (emphasis added).

[62] In ***FZ (China)***, as in the present case, a third country national was married to a British wife by whom he had a British daughter, who was a minor dependent on her parents. Although the wife would face a difficult choice if her husband were deported, whether to go with him to keep the family together or to remain in the UK with her daughter, that situation did not engage the principle in ***Ruiz Zambrano*** so as to generate a right for the husband to be allowed to remain. The wife might feel compelled by circumstances to leave with her husband and take their daughter with her, but she was not compelled by law to do so. The wife could choose to remain. There was therefore no "*entire dependency*" of the daughter on the person being deported, namely the father. See also ***S1, T1, U1 & V1 v Secretary of State for the Home Department*** **[2016] EWCA Civ 560** at [46]-[51], which is to similar effect.

> [63] In my view, the reasoning in ***FZ (China)*** covers the present case and shows that, contrary to the view of the UT at para. [16] of the UT appeal decision, the possibility that KB and the children will choose to go to Jamaica with VM does not "*violate the fundamental precepts of EU law.*"
>
> [64] It follows that the presence of the children in the UK does not, as a result of the operation of EU law, have to be treated as a fixed point for the purposes of the proportionality analysis under Article 8. It was legitimate for the FTT in the 2015 FTT decision to consider for the purposes of its Article 8 proportionality analysis whether the family unit could be expected to take the option, which EU law allows the Secretary of State to present to KB and the children, of relocating to Jamaica with VM.

18. On behalf of the Secretary of State it is submitted that there was no basis on which the Judge could have found that the deportation of the appellant would lead to circumstances in which David would be forced to leave the European Union as well. He relies, in particular, on the findings of undue harshness in paragraph 11(viii) of the decision under appeal. In my judgment that is correct. If it were not unduly harsh for David to remain in the United Kingdom without his father, then it is untenable to suggest that the Judge should have gone on to find that he would have been required to leave the European Union. The Appellant's spouse's evidence, that we have set out above, goes nowhere near demonstrating the kind of dependence that would make David leaving the UK (and the EU) the inevitable consequence of deportation of the Appellant.

19. The reality is, on this appeal, is that this was not a ***Zambrano*** case at all. It was a case that required an analysis of undue harshness and it required, as the Judge gave it, a detailed analysis of the evidence of the likely impact on David measured against the offending and the public interest in deporting foreign criminals. That public interest is heightened and recognised by 399D in the instance of people who have already been deported and unlawfully returned to the United Kingdom. There are numerous decisions of the Court of Appeal which point out that the almost inevitable consequence of deportation of a parent will be some harshness caused to the individual child. In ***AJ (Zimbabwe) -v- SSHD [2016]*** **EWCA Civ 1012** the Court of Appeal said this [17]:

> "These cases show that it will be rare for the best interests of the children to outweigh the strong public interest in deporting foreign criminals. Something more than a lengthy separation from a parent is required, even though such separation is detrimental to the child's best interests. That is commonplace and not a compelling circumstance. Neither is it looking at the concept of exceptional circumstances through the lens of the Immigration Rules. It would undermine the specific exceptions in the Rules if the interests of the children in maintaining a close and immediate relationship with the deported parent were as a matter of course to trump the strong public interest in deportation. Rule 399(a) identifies the particular circumstances where it is accepted that the interests of the child will outweigh the public interest in deportation. The conditions are onerous and will only rarely arise. They include the requirement that it would not be reasonable for the child to leave

> the UK and that no other family member is able to look after the child in the UK. In many, if not most, cases where this exception is potentially engaged there will be the normal relationship of love and affection between parent and child and it is virtually always in the best interests of the child for that relationship to continue. If that were enough to render deportation a disproportionate interference with family life, it would drain the rule of any practical significance. It would mean that deportation would constitute a disproportionate interference with private life in the ordinary run of cases where children are adversely affected and the carefully framed conditions in rule 399(a) would be largely otiose. In order to establish a very compelling justification overriding the high public interest in deportation, there must be some additional feature or features affecting the nature or quality of the relationship which take the case out of the ordinary."

20. Like the Judge, we do not doubt that the impact of the deportation of the appellant in this case will have a negative (possibly profound) effect on David and that, as the Judge found, undoubtedly consideration solely of his best interests would dictate that the appellant be allowed to remain in the United Kingdom. However, Parliament has decided that that is not the determinative factor, it is something that has to be balanced against the public interest in maintaining the Immigration Rules and in particular in this instance the maintenance of the authority of deportation orders. Despite the submissions that have been made by Mr Al-Rashid we cannot detect an error of law in the decision of the First-tier Tribunal Judge. His findings are unimpeachable. There were and are no "*very exceptional circumstances*" that outweigh the public interest in the Appellant's deportation and in those circumstances the appeal will be dismissed.

Notice of Decision

The appeal is dismissed.

No anonymity direction is made.

Signed:  **Date:** 27 February 2018

Mr Justice Nicklin