



IAC-FH-CK-V1

**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/11473/2019
(P)**

THE IMMIGRATION ACTS

**Decided under rule 34
On 16 August 2020**

**Decision & Reasons Promulgated
On 18 August 2020**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**[M A]
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Clyde Solicitors

For the Respondent: Mr Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is appealing against a decision of Judge of the First-tier Tribunal Clarke (“the judge”) promulgated on 2 January 2020 dismissing his human rights claim. Permission to appeal was granted on 1 April 2020.
2. On 29 June 2020 directions were issued by the Upper Tribunal expressing the preliminary view that the error of law issue in this appeal could be determined without a hearing.

3. On 4 July 2020 the respondent submitted submissions stating that it was accepted that the judge materially erred by not making findings on whether paragraph 276 ADE(1)(vi) of the Immigration Rules was satisfied or conducting a full proportionality assessment under article 8 ECHR. The respondent also submitted that the appeal should be remitted to the First-tier Tribunal for a de novo hearing. The appellant also expressed the view that the appeal should be remitted to the First-tier Tribunal.
4. In the light of the position of the respondent, I find that the decision of the First-tier Tribunal should be set aside on the basis that it involved the making of an error on a point of law. As the appeal will need to be considered afresh with no findings preserved, having regard to para. 7.2(b) of the Practice Statements of the Immigration and Asylum Chambers of the First-tier Tribunal and Upper Tribunal, I have decided that the appeal should be remitted to the First-tier Tribunal.

Notice of Decision

- a. The appeal is allowed.
- b. The decision of the First-tier Tribunal is set aside and the appeal is remitted to the First-tier Tribunal to be heard afresh by a different judge.

Direction Regarding Anonymity

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

Daniel Sheridan

Upper Tribunal Judge Sheridan

Dated: 16 August 2020

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically).**
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**
5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is “sent’ is that appearing on the covering letter or covering email