



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

Appeal number: PA/09270/2019 (P)

**THE IMMIGRATION ACTS**

**Decided under rule 34**

**Decision and Reasons  
Promulgated  
On 13 July 2020**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**K A M C**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DETERMINATION AND REASONS**

1. This is an appeal against the decision of FtT Judge Tully, promulgated on 11 February 2020.
2. The grounds are:
  - [1] failure to address the evidence of the appellant's partner;
  - [2] error of fact, taking it as the appellant's evidence that he took no precautions, when he did describe precautions taken; and
  - [3] error in identifying discrepancies arising from interviews.
3. The FtT granted permission principally in light of ground [1], but without restriction.

4. The UT issued directions with a view to deciding without a hearing whether the FtT erred in law and, if so, whether its decision should be set aside. In response, the appellant argues for the decision to be set aside, and seeks a remit. The SSHD "... agrees that the FtT materially erred in failing to engage with the evidence of the appellant's partner", and seeks the same outcome.
5. I am satisfied that parties are correct in their agreement on ground [1]. It is unnecessary to resolve grounds [2] and [3], or to deal with the appellant's submissions on whether the UT should hold an oral hearing.
6. The decision of the FtT is set aside. It stands only as a record of what was said at the hearing.
7. Under section 12 of the 2007 Act, and under Practice Statement 7.2, the case is remitted to the FtT for an entirely fresh hearing. The member(s) chosen to hear the case are not to include Judge Tully.
8. The FtT's anonymity direction is preserved.
9. The date of this determination is to be taken as the date it is issued to parties.

Hugh Macleman

Date 29/06/2020

UT Judge Macleman

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#### **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.**