**Upper Tribunal**
**(Immigration and Asylum Chamber)** Appeal Number: HU/13415/2019

**THE IMMIGRATION ACTS**

| **Heard at Field House (via Skype)** | **Decision & Reasons Promulgated** |
|---|---|
| **On 26 March 2021** | **On 29 April 2021** |

**Before**

**UPPER TRIBUNAL JUDGE BLUNDELL**

**Between**

**MALIK ANTHONY SKEFFERY**
**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Mr J Knight, legal representative, Duncan Lewis Solicitors
For the Respondent: Mr Melvin, Senior Presenting Officer

**DECISION AND REASONS**

1. On 9 October 2020, I issued a decision in which I held that the First-tier Tribunal (Judge Cameron) had erred in law in allowing the appellant's appeal on Article 8 ECHR grounds. I set aside that decision in part and ordered that the decision on the appeal would be remade in the Upper Tribunal. A copy of my first decision is appended to this one and should be read in conjunction with it.

**Background**

2. The appellant is a medium offender who faces deportation from the United Kingdom. His primary route to avoiding deportation is to engage one of the statutory exceptions in s117C of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act"). He relies – as he did before the FtT – on the first of those exceptions. In order to succeed, he must therefore establish that he has been lawfully resident in the UK for most of his life; that he is socially and culturally integrated in the UK; and that there would be very significant obstacles to his reintegration to Jamaica.

**Scope**

3. As I explained in my first decision, the appellant has been in the United Kingdom since the age of four and has resided lawfully since then. He was granted ILR in 2003, at which point he was five years old. It has consequently not been in issue in this appeal that the appellant has been lawfully resident in the UK for most of his life. The question of whether the appellant is socially and culturally integrated in the UK *was* in issue between the parties before the FtT. The judge resolved that question in the appellant's favour and, at [24]-[29] of my first decision, I explained why I did not consider the respondent to have shown that this conclusion was tainted by legal error.

4. The judge also found in the appellant's favour in concluding that there would be very significant obstacles to his reintegration into Jamaica. In that regard, I concluded that the judge had fallen into legal error. I set aside the FtT's decision in that respect only and directed that the Upper Tribunal would remake the decision to that extent, and would also consider, insofar as it was necessary to do so, whether there were very compelling circumstances which sufficed to outweigh the public interest in the appellant's deportation. In statutory terms, therefore, my task in this second decision is to consider only the questions posed by s117C(4)(c) and s117C(6) of the 2002 Act.

5. My task is further defined by the fact that a number of the FtT's findings of fact were not tainted by legal error and were expressly preserved in my first decision. Those findings include the following. The appellant, his stepmother and his elder sister had given credible evidence before the FtT: [83]. The appellant does not maintain contact with his family in Jamaica and he has no meaningful relationship with anyone in that country: [83]. He has no contact with his birthmother and there is no reason to think that the relationship with her or her family could be rekindled: [85] Neither the appellant nor his family have returned to Jamaica since they arrived in the UK: [84]. The appellant would have no real connection to the country other than the fact of his birth: [86]. His father has mental health issues. The appellant resides with a relative in the UK: [86]. The judge had 'not

been provided with sufficient evidence' to make a decision that the appellant could receive support over and above the food and accommodation he received in the UK: [87]. He receives emotional support from the family he has in the UK. The appellant receives medication for his epilepsy but there was nothing to show that such treatment would be unavailable in Jamaica: [88]. Although the appellant had undertaken education and courses in the UK, he had no meaningful links with Jamaicia which would assist him in reintegrating there: [89]. As a result of the 'considerable crime related environment', the appellant would be 'susceptible to criminal elements' in order to survive: [90]. Any relocation assistance would not last very long: [91].

**Documentary Evidence**

6. Despite the clear and specific focus of this remaking hearing, the 232 page bundle which was belatedly filed and served by the appellant's solicitors replicates much of the material which was before the FtT. There are statements made by the appellant, his father, his mother, his aunt, his sister, his neighbour and his cousin. All of these statements were made for the hearing before the FtT, as was a letter from the proprietor of a bakery where the appellant was previously employed for a few months and a lady called Ms Smith, who works to reduce gang violence in Wandsworth.

7. There is some documentary evidence concerning the health of the various members of the appellant's family. In respect of the appellant, there is material from 2018 relating to a diagnosis of epilepsy and the treatment given in relation thereto. In relation to his father, there is a printout from surgery records in 2018, showing that he had psychotic episodes in 2014 and 2017 and that he was prescribed Olanzapine in 2018. In relation to the appellant's mother, there is evidence which had not been before the FtT, showing that she had suffered a stroke or heart attack requiring 5 days inpatient treatment in June 2020.

8. There are also a number of documents relating to the appellant's academic and vocational achievements in the UK, before, during and after his time in prison. A letter from his Probation Officer, written in 18 September 2020, suggested that the appellant had engaged well with supervision; that he was working towards a career in the fitness industry; and that he had a close and supportive family. The OASYS report which preceded that (written in December 2019) showed that the appellant presented a low risk of serious harm to all but members of the public, in respect of whom he presented a medium risk.

9. I had directed that the appellant's bundle should be filed and served 21 days in advance of the hearing. That direction was sent to the parties on 18 January 2021, by email. The purpose of that direction, as I made clear, was to ensure that the respondent had adequate time in which to consider

the appellant's bundle and to notify the Upper Tribunal if there were questions she wished to put to the appellant or his witnesses. I issued that direction with a view to ensuring that an informed view might be taken regarding the mode of hearing, since a remote hearing was unlikely to be suitable to the taking of contentious evidence from multiple witnesses. In the event, the appellant's solicitors filed and served the bundle nine days before the hearing. Thankfully, Mr Melvin confirmed at the start of the hearing before me that he had no questions for the appellant or his witnesses. It was in those circumstances that I heard submissions from Mr Knight, for the appellant, first.

**Submissions**

10. Mr Knight submitted that the only question which arose for decision was whether there were very significant obstacles to the appellant's re-integration to Jamaica. He asked me to consider the decision of the Court of Appeal in Lowe [2021] EWCA Civ 62 and to recall that the FtT had had the benefit of seeing and hearing the appellant and his witnesses give evidence. The reality of the case was that the appellant had lived in the UK since the age of four and he had no knowledge of Jamaica. It was obviously correct that he was of Jamaican origin and that he had lived with a Jamaican family in the UK but he was to all intents and purposes an Englishman. Even if he had been familiar with the country when he left, it would inevitably have changed in the ensuing years.

11. Mr Knight submitted that Jamaica was a very violent society in which the prospects of an individual re-integrating were closely tied to who they knew. The appellant's London accent would be identified and he would be regarded as a failure. This would leave him open to exploitation as he would not be streetwise and would not know how to react to the ordinary man on the street. He would be unable to understand the slang which was in use and would be a fish out of water. I asked Mr Knight to support these various assertions with evidence in the voluminous appellant's bundle but he initially declined to do so, stating that his submissions were based on common sense and should be accepted as such.

12. Mr Knight submitted that any support from the authorities in the UK would be unlikely to last long. There was very high unemployment in Jamaica and it would be difficult for the appellant, with his UK qualifications, to find any work there. I asked Mr Knight for evidence in support of any of these assertions. He asked me to draw an inference from the respondent's Country Information and Policy Note entitled *Jamaica: Fear of organised criminal groups*. It was clear, he submitted that there must be high unemployment in Jamaica because there was extensive criminal activity. He also submitted that high unemployment must be the driver for the ongoing level of emigration to the United Kingdom from Jamaica. Again, this was all common sense, he submitted. Pressed by me

to find some evidence in support of his submissions, Mr Knight eventually made reference to what is said about unemployment and the high homicide rate in the CPIN. The country is one of the most violent in the world, he submitted, and the appellant could not return safely.

13. Mr Knight submitted that the appellant would not receive any financial support from his family in the United Kingdom. Noting that this was a submission which seemingly contradicted the finding of the FtT, I asked Mr Knight about the evidence upon which it was based. He submitted that the cost of supporting the appellant in Jamaica would necessarily be higher than in the UK, where he could simply share food and accommodation with other family members. I asked him to develop the submission with regard to the financial ability of the family to support the appellant upon return. He submitted that the appellant's sister could 'possibly' support him but that his mother and father certainly could not, as they were both in low paid jobs. I asked what their jobs were. Mr Knight did not know. He took instructions, and stated that the appellant's father was a cleaning supervisor and his mother an NHS delivery manager. He submitted that they had little residual income after paying their bills but he had no evidence in support of that submission. At one point, he suggested that they were dependent on benefits to supplement their income, although he was quickly disabused of that suggestion by the appellant's mother and retracted the submission.

14. Mr Knight submitted that the appellant would be ineligible for any financial support or healthcare from the Jamaican authorities due to his length of absence from the country. He would be treated as a foreign national despite his Jamaican passport. He was unable to take me to any evidence in support of these submissions.

15. Mr Knight submitted that the appellant would be an outsider in Jamaica and that his difficulty integrating into society there would be rendered all the more difficult by his epilepsy. He would not have the emotional support of his family in the UK, because his mother has a poor internet connection and could not speak to him via Skype or other forms of video communication. He would be unable to reintegrate without encountering very significant obstacles.

16. Mr Melvin relied on his skeleton argument. He had listed points which suggested that it would not be very difficult for the appellant to reintegrate into Jamaica notwithstanding his length of absence from that country. Despite the obvious significance of the point, there had been nothing before the FtT to show that his family in the UK would be unable to support the appellant whilst he found his way in Jamaica. That remained the case before the Upper Tribunal. He would evidently be able to receive some emotional support from the UK as well, even if that could not be by video link.

17. Mr Melvin submitted that the appellant's case was largely unsupported by any evidence and it was only when pressed that Mr Knight had made some reference to the background material, which was in any event of very little relevance. The appellant had relatives in Jamaica, including his birthmother and his uncle. He could seek to make contact with either or both. It had been submitted that there was high unemployment in Jamaica but a quick internet search showed that rates were significantly down. I observed to Mr Melvin that the respondent had served no evidence to this effect and that it was impermissible merely to cite material he had found on the internet during the hearing. He responded, firstly, that the appellant had given no notice, whether in the skeleton argument or otherwise, of an intention to rely on the unemployment rate in Jamaica and, secondly, that it was impermissible for the appellant to ask the Tribunal to treat the unemployment rate in Jamaica as common sense or common knowledge.

18. Why, Mr Melvin asked rhetorically, would the appellant be in a disadvantageous position? There was nothing to show that his transition to life in Jamaica would not be eased by support from the Jamaican government, the appellant's family in the UK and any support package he would receive from the authorities in the UK. It was notable, in any event, that there was no evidence to show that neither the appellant nor his family had returned to Jamaica since their arrival in the UK. I asked Mr Melvin whether he was able to direct me to evidence regarding the amount of support that the appellant might receive from the UK authorities. He directed me to that part of the decision letter which dealt with the Facilitated Returns Scheme ("FRS").

19. Mr Knight replied that the appellant could not turn to his birthmother in Jamaica as she had voluntarily given him up. There was no contact between the appellant and his uncle in Jamaica; so much was clear from his assertion that he had 'no one in Jamaica', at [3] of his statement before the FtT. It was accepted that the appellant would be eligible for a relocation or integration package. Such packages were intended to assist returnees in reintegrating and setting up a business. The appellant would receive £500 initially and could then apply for a grant to set up a business.

20. I reserved my decision after the representatives had made their submissions.

**Legal Framework**

21. As I have set out above, my focus in this appeal is on the first of the statutory exceptions to the deportation of medium offenders such as the appellant, whose index offences (possession of drugs of class A with intent to supply and possession of a bladed article in a public place) attracted a

sentence of three years' detention in a Young Offenders Institution. The exception is found in s117C(4) of the 2002 Act and is as follows:

> '(4) Exception 1 applies where—
>
> (a) C has been lawfully resident in the United Kingdom for most of C's life,
>
> (b) C is socially and culturally integrated in the United Kingdom, and
>
> (c) there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.'

22. The first two of those conditions are not in issue before me. In relation to the third, there is now an appreciable body of authority from the Court of Appeal, much of which I cited in my first decision. The proper approach remains as set out in those authorities. I will return in due course to what was said by the Court of Appeal in Lowe, the significance of which lies not in an analysis of s117C(4) or the authorities in which it has been considered, but in the factual similarities between the two cases and the holding that it had been rationally open to the FtT to conclude on those facts that s117C(4) was satisfied.

23. When I set aside the decision of the First-tier Tribunal and directed that the decision on the appeal would be remade in the Upper Tribunal, I had anticipated that submissions would be made on the alternative basis that there were very compelling circumstances in the appellant's case which outweighed the public interest in deportation, such that the appellant could succeed under s117C(6). Presumably in recognition of the threshold presented by that subsection, however, Mr Knight did not seek to develop any such submissions in oral argument.

**Analysis**

24. There can be no doubt that deportation to Jamaica is a daunting prospect for the appellant, and for his family, who speak in their statements about their concern for him in the event that he was required to return. I proceed, as I have explained above, on the basis of the findings of fact which were made by Judge Cameron, who had the benefit of seeing and hearing the appellant and his witnesses give evidence. He was therefore uniquely well placed to conclude, as he did, that the appellant has no meaningful relationship with anyone in Jamaica and that he would have no family support on the island. The judge also accepted the contention that the appellant and his family have not returned to Jamaica since they came here when the appellant was a small child. Again, that finding of fact was open to the judge and cannot be revisited before me.

25. In the above respects, the appellant's case certainly bears some similarities to that of the appellant in Lowe, in which the Court of Appeal held that

the Upper Tribunal had not been entitled to set aside and revisit the conclusion of the FtT that the appellant would encounter very significant obstacles to reintegration. Instead, McCombe LJ and Asplin LJ (with whom Phillips LJ disagreed), concluded that the Upper Tribunal had failed to identify any legal error in the decision of the FtT and had impermissibly substituted its own view on the facts. The facts which led the First-tier Tribunal Judge Wilson in that case to conclude that there were very significant obstacles to that appellant's reintegration to Jamaica were reproduced at [18] of McCombe LJ's judgment. The following part of Judge Wilson's [31] contains the crux of his reasoning:

> "I accept that the Appellant speaks English which is one of the official languages of Jamaica. I accept the Appellant is a young healthy man of working age who is educated. However, the Appellant has grown up in, been educated in and spent his whole adult life to date in the UK. It is that length of time in the UK; that lack of any family or support in Jamaica; the Appellant never having lived an independent life away from either of his parents or state institutions and a lack of financial support which would allow the Appellant to seek basic necessities such as accommodation which present significant obstacles to his integration into Jamaica."

26. Before me, Mr Melvin acknowledged the presence of many of these obstacles in the appellant's case. He was correct to do so. The appellant has no reason to have any knowledge of life in Jamaica and he has no support network in that country. The focus in the respondent's submissions was therefore on the absence of evidence to demonstrate that this appellant would be unable to rely on support from his family in the United Kingdom and from the authorities in the United Kingdom and Jamaica to provide the basic necessities when he first returns and seeks to make his way in an unfamiliar environment.

27. The finding made by the FtT regarding the ability of the appellant's family in the UK to support him financially on return to Jamaica was limited and somewhat opaque. At [87], the judge noted that he had 'not been provided with sufficient evidence to make a decision that he would be able to be supported on return to Jamaica over and above the support of food and accommodation he gets here.' It is not clear to me whether the judge concluded that the family would not be in a position to send the appellant any financial support in Jamaica or whether they would be able to support him to obtain food and accommodation there.

28. Mr Melvin noted this lack of clarity in the preserved findings at [24]-[25] of his skeleton argument, noting in particular that it was not clear why the appellant's sister could not support the appellant financially upon return. On instructions, Mr Knight accepted before me that the appellant's sister *could* provide some support, although he was unable to provide further details. I asked about the appellant's mother and father in the United

Kingdom. Mr Knight initially stated that they were both in low-paid employment and would be unable to provide any assistance. In response to a further question, however, he was unable to give any indication of either their employment or their income, causing me to question the evidential basis of his first response. I allowed him to take further instructions on the point, as a result of which he stated that the appellant's father is a cleaning supervisor and the appellant's mother is an NHS delivery manager.

29. Whilst I am prepared to accept that the appellant's father's position might aptly be categorised as low-paid employment, that label seems inappropriate for the appellant's mother's job. Mr Knight was prepared to assume, without evidence, that the family had insufficient surplus income to provide any assistance to the appellant. I am not prepared to make that assumption. It is commonplace in immigration appeals to be presented with schedules of income and household expenditure but I have nothing of that kind before me and it would be inappropriate to assume, in the face of evidence that one of the appellant's parents is in a managerial position in the NHS, that they have no ability to provide some assistance for him during re-integration. I conclude that the appellant could receive some financial assistance from his sister and his parents in the UK.

30. Mr Melvin also submitted that the appellant would be able to rely upon the Facilitated Returns Scheme for further assistance. The availability of such support was noted at the start of the respondent's decision, in the following terms:

> 'Facilitated Return Scheme (FRS)
>
> You could return home under the Facilitated Return Scheme with a reintegration package worth £1500 or £750. If accepted by the scheme you will receive £500 in cash on departure.
>
> Contact the FRS team today on 020 8760 8513.
>
> If you do not currently have a valid passport you will need to co-operate with the process for obtaining a document to facilitate your travel from the UK.'

31. I note that the importance of this scheme (in the context of protection appeals) has been underlined in country guidance decisions such as MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC), at [423], and AS (Safety of Kabul) Afghanistan CG [2020] UKUT 130 (IAC), at [243]-[246].

32. Mr Melvin was not in a position to explain precisely what support might be available. Mr Knight was able to assist as a result of his experience from other cases, however, and stated that the appellant would receive £500 initially and could then apply for a grant to set up a business.

33. Mr Knight submitted that the appellant would not be eligible to receive any support from the Jamaican state, whether by way of social security, accommodation or healthcare. He asserted that this was because the appellant would be treated by the Jamaican authorities as a foreign citizen, despite his Jamaican nationality, as a result of the length of time he had spent in the UK. Mr Knight was unable to cite any evidence in support of this submission and resorted, as he did on a number of occasions during his submissions, to a claim that this was either common knowledge or that it was common sense to reach this conclusion. There was, in truth, no proper basis for this submission and it should not have been made. There is no reason to think that the Jamaican authorities would cut the appellant adrift because he has been living in the United Kingdom since the age of four and there is no evidence to suggest that there is anything other than a functioning welfare state in Jamaica to which the appellant could turn if the need arose.

34. Mr Knight relied on what he said would be the appellant's inevitable difficulty in securing employment in Jamaica. I accept, of course, that the appellant has no experience of the labour market in that country and that his experience of lawful employment in the UK comprises a few months working in a bakery, the general manager of which described him as a 'very polite, conscientious and reliable individual' (Mr Bevir's letter of 23 October 2018 refers, at page 73 of the appellant's bundle). The appellant has academic qualifications from the UK, however, and there is no evidence to support the submission made by Mr Knight that these qualifications would be held in any lower esteem than comparable ones which had been obtained in Jamaica. The appellant is therefore a young man with nine GCSEs, a Prince's Trust Certificate in Employment, Teamwork and Community Skills, a professional qualification in Fitness Instruction, and a positive employment reference from an employer the United Kingdom. His ambition, were he to remain in the United Kingdom, is to start a business in the fitness industry.

35. Mr Knight relied on a submission that there was a high incidence of unemployment in Jamaica. In support of that submission, he relied on the only piece of background evidence which has been adduced in this appeal: the 2019 CPIN to which I have previously referred. Although Mr Knight was not immediately able to refer me to the salient parts of this report, I accept that it shows that unemployment is high in Jamaica: 3.1.3 and 3.3.4 refer.

36. Mr Knight also made reference, as he had before the FtT, to the levels of crime in Jamaica. Having considered the CPIN in detail, with particular focus on those sections to which I was particularly directed by Mr Knight, I accept that the levels of crime – and violent crime in particular – are high in Jamaica. Violence is described at 3.3.3 of the report as 'endemic among poor black communities'. There is said to be a serious risk from violence

in Kingston, which is particularly acute in the 'garrison' communities in the capital, which are controlled not by the Jamaican authorities but by 'dons' who are linked to the political representatives in the area: 3.1.2, 5.2 and 6.3.1. There are thought to be 200 or more gangs on the island, some of which have involvement in so-called 'lotto scamming' (4.2.5) and the trade in narcotics and firearms: 4.1. Planned kidnapping of high-net worth individuals and targets of opportunity is also a phenomenon: 4.2.2.

37. Drawing these threads together, I accept that there are clear obstacles to the appellant's re-integration to Jamaica. He has no support network there. He has no real experience of life on the island. He speaks the language but he will have no knowledge of the level or type of criminality or of the garrison communities which exist in Kingston. He has no experience of the education system or of the labour market. There are, in any event, high levels of unemployment which will hinder his chances of ensuring that he is able to provide for himself.

38. These obstacles will be offset, however, by the support which the appellant will be able to rely upon from the United Kingdom. It is not established that his parents will be unable to support him. It is accepted that his sister can do so. He will also receive a small grant from the FRS scheme. There is no evidence to show that he cannot turn to the Jamaican authorities for assistance if required. Unlike the appellant in Lowe, the appellant will not be unable to receive the basic necessities of life. I do not accept that the appellant will be without food or shelter when he returns to Jamaica; he can count on his family in this country to rally around and assist him whilst he resettles. He has qualifications of various descriptions and he has a plan to establish a business in the UK. If he returns to Jamaica, he can apply for a grant to enable him to bring that plan to fruition. There is no reason to think that the personal fitness industry is any less popular in Jamaica than it is in the United Kingdom.

39. The test in s117C(4)(c) concerns not only board and lodging, however. Sales LJ (as he then was) explained in SSHD v Kamara [2016] EWCA Civ 813; [2016] 4 WLR 152 how the statutory test requires a broad evaluative judgment of "whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life."

40. The appellant will not return to Jamaica as an insider but it would be wrong, in my judgment, to categorise him as Mr Knight did. He has grown up amongst family members in the Jamaican diaspora and I am unable to accept that he would not have some familiarity with Jamaican culture. Even if he could not connect to his mother and father via Skype in

the UK, he could speak to them on the telephone and seek their emotional support and guidance as he re-integrates to Jamaica. As the FtT found, there is inadequate evidence to suggest that his epilepsy would hinder him in his attempts to re-integrate. He would not be required, with the support he would receive from the UK, to live in the most dangerous communities in Kingston. Nor would he be required to live what Mr Knight describes in his skeleton argument as a 'life of destitution'.

41. I do not accept that the appellant would be unable to adapt to life in Jamaica because he has no support network upon which to build. Mr Knight submitted that an individual's ability to get by in Jamaica was contingent upon a 'who you know' culture. Whilst there is certainly some support for that submission in relation to the garrison communities in Kingston, there is insufficient evidence that it dominates the island as a whole. The evidence simply does not paint a picture of a society which is comparable in that respect to Albania, for example (see AM & BM (Albania) CG [2010] UKUT 80 (IAC), at [165]). I see no reason why a young man who is said to be 'amazing in terms of his reliability, attitude and work' (page N56 of the respondent's bundle refers) could not build up a variety of human relationships within a reasonable time.

42. Considering the position as a whole, and adopting the forward-looking focus which the subsection requires, I do consider that the appellant will have a reasonable opportunity to be accepted in Jamaica, to operate on a day to day basis and to build up within a reasonable time a variety of human relationships. Whilst re-integration will necessarily be difficult, I do not accept that there are very significant obstacles to the appellant's re-integration into the country of his birth and nationality.

43. It follows that I do not accept that the first statutory exception to deportation applies to the appellant. He does not seek to suggest that he has any relationships which bring him within the scope of the second.

44. As I have noted above, Mr Knight made no oral submission that there are very compelling circumstances which outweigh the public interest in the appellant's deportation. I nevertheless consider that question, because it remains necessary in principle to conduct a full article 8 ECHR proportionality assessment: HA (Iraq) [2020] EWCA Civ 1176; [2021] 1 WLR 1327, at [59]. There can be no doubt that Article 8 ECHR is engaged in its private and family life aspects by the deportation of a young adult who continues to live with his family and who has been raised in this country.

45. There is a very strong public interest in the deportation of the appellant. He was convicted of being concerned in the supply of class A drugs twice. The second such offence (and the possession of a bladed article in a police station) took place whilst he was serving a suspended sentence. These are

serious offences and the more serious the offence committed, the greater the public interest in the deportation of the criminal: s117C(2) refers, as considered in Akinyemi [2019] EWCA Civ 2098; [2020] 1 WLR 1843. The appellant's sentence of three years' custody places him in the upper range for 'medium offenders'.

46. Various matters might properly have been said to weigh against the appellant's deportation, or to reduce the public interest in that course, in the balance sheet of proportionality. It will be difficult for him to reintegrate into Jamaica, even if that difficulty does not reach the elevated threshold in the statutory exception. He has spent the majority of his life lawfully in the UK, since he was a young child (Maslov v Austria [2009] INLR 47, read with Akinyemi [2017] EWCA Civ 236; [2017] 1 WLR 3118). There was a period of years within which he would have been eligible to apply to become naturalised as a British citizen. He committed his various offences as a young man and his final sentence was to be served in a Young Offenders' Institution, rather than a prison (Maslov v Austria). He represents a low risk of reoffending and seems to have distanced himself from his former peers and a pro-criminal lifestyle involving the use and supply of drugs: HA (Iraq), at [141]. He has a supportive family, who will be devastated by his deportation. His mother and his father have health conditions which only serve to increase the distress which will be felt by the family.

47. Weighing all of these matters as I am required to do, I come to the clear conclusion that the weight of the public interest in this case is such as to outweigh those matters on the appellant's side by some margin. Despite his arrival in the UK as a young man and his age when his offending was committed, there remains a strong public interest, underscored by primary legislation, in the deportation of an individual who received a custodial sentence of three years. I do not consider that public interest to be outweighed by the difficulties and distress which the appellant's deportation will cause him and his family. Mr Knight did not attempt to submit orally that the appellant had the sort of 'very strong claim indeed' which would be required to overcome the public interest (Hesham Ali [2016] UKSC 60; [2016] 1 WLR 4799, at [14], refers). For the reasons above, I consider that he was correct not to have pursued any such submission.

48. Section 117B of the 2002 Act does not serve to increase the weight of the public interest in this appellant's deportation. He has always remained lawfully, he speaks English and he does not represent a burden on public funds. Be that as it may, the extent of the public interest in his deportation as a result of his criminality is such that deportation is the proper and proportionate course.

49. The appellant is unable to show that he meets the statutory exceptions to deportation. He is unable to show that there are very compelling

circumstances which outweigh the public interest in his deportation. In the circumstances, the appeal is dismissed.

**Notice of Decision**

The First-tier Tribunal's decision involved the making of an error on a point of law and it has been set aside in part. I remake the decision on the appeal by dismissing it.

No anonymity direction is made.

*M.J. Blundell*

Judge of the Upper Tribunal
Immigration and Asylum Chamber

12 April 2021

**Upper Tribunal**
**(Immigration and Asylum Chamber)** Appeal Number: HU/13415/2019

**THE IMMIGRATION ACTS**

**Heard at Field House**
**On 28 September 2020**

**Decision & Reasons Promulgated**

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**Before**

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**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MALIK SKEFFERY**
**(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**
For the Appellant: Mr Tufan, Senior Presenting Officer
For the Respondent: Mr Knight, Solicitor of Duncan Lewis & Co

**DECISION AND REASONS**

1. The Secretary of State appeals, with permission granted by First-tier Tribunal Judge Saffer, against a decision which was issued by First-tier Tribunal Judge Cameron ("the judge") on 19 February 2020, allowing Mr Skeffrey's appeal against the respondent's refusal of his human rights claim.

2. To avoid confusion, I shall refer to the parties as they were before the First-tier Tribunal; Mr Skeffrey as the appellant, and the Secretary of State as the respondent.

**Relevant Background**

3. The full background is set out very clearly within the judge's decision and I do not propose to rehearse it. It suffices for present purposes to note the following.

4. The appellant is a Jamaican national who was born on 24 February 1998. He arrived in the UK in 2002, aged four, and was granted Indefinite Leave to Remain ("ILR") in September 2003. He has lived in the UK since his arrival, and has not returned to Jamaica. He has convictions for a number of criminal offences, the most serious of which concerned the possession of drugs (cannabis and heroin) with intent to supply and the possession of a bladed article. For those offences, and an offence of breaching an earlier suspended sentence, the appellant received a sentence of 3 years' detention in a Young Offenders' Institution.

5. Following an exchange of correspondence, the respondent made a deportation order against the appellant on 9 July 2019. On 23 July 2019, she refused the human rights claim which the appellant had made in response to her stated intention to deport him from the United Kingdom. It was against that refusal that the appellant appealed to the First-tier Tribunal.

**The Appeal to the First-tier Tribunal**

6. The appellant attended the hearing before the FtT, represented by Mr Knight. The respondent was represented by a Presenting Officer. Comparatively large bundles of documentary evidence had been filed by both parties. Mr Knight had prepared a skeleton argument. The judge heard oral evidence from the appellant and his family members (stepmother and sister). He heard closing submissions from both representatives before he reserved his decision.

7. In his reserved decision, the judge summarised the evidence he had received in oral and documentary form. He made reference to the relevant paragraphs of the Immigration Rules and Part 5A of the Nationality, Immigration and Asylum Act 2002. He also cited Hesham Ali v SSHD [2016] UKSC 60; [2016] 1 WLR 4799 and MF (Nigeria) v SSHD [2013] EWCA Civ 1192; [2014] 1 WLR 544.

8. At [27], the judge noted that this was not a case in which it was submitted that the appellant could benefit from the second (family life) exception to deportation, as he had neither parental responsibility for a child nor a genuine and subsisting relationship with a qualifying partner. The judge

therefore proceeded, from [28] onwards, to focus on the appellant's submission that he met the first (private life) exception to deportation. It was obviously accepted by the respondent that he had been lawfully resident in the United Kingdom for most of his life. The remaining questions, as posed by s117C(4), were whether the appellant was socially and culturally integrated in the United Kingdom and whether there would be very significant obstacles to the appellant's integration into Jamaica.

9. Having set out the evidence which bore upon those questions, and having reminded himself of the appellant's offending background in detail, the judge turned to analyse the questions presented by s117C(4). In relation to social and cultural integration, under s117C(4)(b), the judge noted that it was the respondent's submission that 'the appellant due to his criminal convictions has not socially and culturally integrated into the UK.': [77]. The judge accepted that the appellant's offending was serious and that he had breached an earlier suspended sentence. He took into account the sentencing remarks and the OASys report, which stated that the appellant presented a medium risk of reoffending and a medium risk of serious harm. His conclusions on this part of the statutory exception were as follows:

> "[79] As indicated, the appellant came to this country when he was four years old and has therefore spent the formative years in this country including his education. The appellant is approaching 22 years of age and has therefore spent nearly 18 years in this country.
>
> [80] Although the appellant commenced offending in 2015 and that offending appears to have escalated given that the index offence was committed whilst on a suspended sentence and the possession of a bladed article occurred whilst the appellant was also on bail for further drug offences, I am not satisfied that the offending itself can be said to show that the appellant has not integrated into this country in view of the fact that he came here at a very young age and spent his formative years here.
>
> [81] I am therefore satisfied that the appellant has been in this country lawfully for more than half his life, and that he has integrated into the UK socially and culturally. The question therefore which arises is whether or not there would be very significant obstacles to his integration into Jamaica were he returned there."

10. Before leaving the judge's treatment of the second limb of this statutory exception, I should also note what he said at [92] (after he had dealt with the next question, of whether there would be very significant obstacles to the appellant's re-integration to Jamaica). Whilst its placement in the decision is unusual, it also contains relevant analysis of this limb:

> "I am satisfied that given the appellant has been here for a period of some 18 years and given that he has formed relationships and friendships in this country that he has integrated into this country

> both socially and culturally. I do not find that his offending notwithstanding that the index offence is drug offending that the overall offending is such that it could be said that he had not culturally integrated into this country."

11. The judge turned immediately to the third aspect of the statutory exception. He noted that there had been consistent evidence about the family, including the appellant, having no real connections in Jamaica and that the appellant had not returned since arriving as a four year old boy: [82]-[84]. The judge noted that the appellant had no ties with Jamaica and that although his 'birthmother' remained there, there was no reason to think that he would be able to re-establish contact with her or with any other potential maternal family members: [85]. The appellant would accordingly be returned 'as a single young man with no real connection to the country': [86]. The judge stated that the appellant received support from his family in the UK but he had not, he said, been provided with sufficient evidence to make a decision that he would be supported in Jamaica 'over and above the support of food and accommodation he gets here': [87]. The judge also noted that the appellant received emotional support from his family in the UK. He attached no significance to the appellant's epilepsy, since there was nothing before him to indicate that medication would be unavailable in Jamaica: [88]. Although the appellant had taken courses in the UK but he had no meaningful links to Jamaica which he could use to assist him in reintegrating: [89]. Having taken account of the respondent's background evidence on Jamaica, the judge expressed some concern that the appellant would be 'susceptible to criminal elements in Jamaica in order to survive.': [90]. The relocation assistance to which the appellant might be entitled would not last very long and would not enable the appellant 'to successfully integrate into that country.': [91].

12. The remainder of the decision contains a brief analysis of the question of whether there are very compelling circumstances over and above those in the statutory exceptions which are capable of outweighing the public interest in the appellant's deportation (s117C(6) of the 2002 Act refers). Since Mr Knight very properly accepted before me that the decision could not be sustained on this alternative basis alone, I shall say no more about those concluding paragraphs.

**The Appeal to the Upper Tribunal**

13. The respondent's grounds do not contain a tight formulation of the propositions advanced. The seven paragraphs of grounds are not even numbered. The importance of properly formulated grounds of appeal has been emphasised by this Tribunal and by the Court of Appeal in Harverye v SSHD [2018] EWCA Civ 2848 and WA (Pakistan) v SSHD [2019] EWCA Civ 302. The Upper Tribunal is entitled to expect more, particularly from

the Secretary of State, with all the resources she has at her disposal. On analysis, however, the grounds of appeal may be summarised as follows:

(1) The judge erred in failing to consider whether the appellant's offending had broken his integrative links to the United Kingdom and had failed to provide adequate reasons for his conclusions on integration to the UK.

(2) The judge had misdirected himself in law and failed to consider material matters in his assessment of re-integration to Jamaica.

14. Mr Tufan developed these grounds briefly in his concise oral submissions. He submitted that the judge had failed to apply the approach in a number of authorities, including Binbuga v SSHD [2019] EWCA Civ 551; [2019] Imm AR 1026, AM (Somalia) v SSHD [2019] EWCA Civ 774; [2019] 4 All ER 714 and SSHD v Bossade [2015] UKUT 415 (IAC); [2015] Imm AR 1281. The judge had failed, in particular, to consider the appellant's present level of integration, the importance of which was highlighted at [88] of AM (Somalia).

15. I asked Mr Tufan for submissions on CI (Nigeria) v SSHD [2019] EWCA Civ 2027; [2020] INLR 191. He accepted that this was a significant decision and had nothing further to add in respect of the first ground. On the second ground, he submitted that the judge's reasoning in respect of 'very significant obstacles' was deficient, in that it contained no clear indication of the threshold applied, whether by reference to authority or otherwise. Mr Tufan cited the decision of the Court of Appeal in Mwesezi v SSHD [2018] EWCA Civ 1104, in which there was no error on the part of the FtT in concluding that there would not be very significant obstacles to the appellant reintegrating into Uganda, which he had left at the age of two.

16. Mr Knight submitted that the judge was very experienced and that there was no error of law in his decision. The judge was not required to set out a list of authorities and what mattered was that he had applied the law correctly. The facts of the case spoke for themselves. The appellant had arrived in the UK at the age of four and had committed no crimes until the age of seventeen. He was plainly fully integrated to the UK. Unlike in Binbuga, there was no suggestion of gang membership. The appellant had been a drug addict but he was now recovered. His entire family, apart from his birthmother, were in the UK, and it had been accepted by the judge that they had no contact with his birthmother. She had relinquished responsibility for the appellant at a young age. All of these points had been understood by the judge and he had made findings of fact in the appellant's favour. There was no reason to interfere with the decision, which had been properly open to the judge.

17. I asked Mr Knight how he met Mr Tufan's submission that there was no indication in the judge's decision of the threshold presented by s117(4)(c).

He accepted that there was no consideration of that point, or of any relevant authority, in the judge's decision, but he submitted that the threshold had been made clear to the judge in the skeleton argument for the FtT. I asked Mr Knight to assist me with the location of that point in the skeleton. He eventually drew my attention to the citation of Bank Mellatt v Her Majesty's Treasury (No 2) [2013] UKSC 39; [2014] 1 AC 700, although he did accept that this decision was of very little assistance on the construction of a specific statutory provision of deportation law. Mr Knight accepted that no relevant authority on s117C(4)(c) was drawn to the judge's attention. He did submit, however, that the judge had borne a number of relevant facts in mind and that he had been entitled, in the circumstances, to find that the appellant satisfied the third limb of the statutory exception.

18. In response, Mr Tufan submitted that there was no consideration of the very significant obstacles threshold on the part of the judge and he had, in any event, overlooked the fact that the appellant retained the tie of nationality, which was a significant matter.

19. I reserved my decision at the end of submissions.

**Statutory Framework**

20. Since the appellant is a medium offender[1] who has available to him the statutory exceptions to deportation, his appeal fell to be allowed on Article 8 ECHR grounds, without more, if he could satisfy s117C(4) of the Nationality, Immigration and Asylum Act 2002. That subsection is in the following terms:

> (4) Exception 1 applies where—
>
> (a) C has been lawfully resident in the United Kingdom for most of C's life,
>
> (b) C is socially and culturally integrated in the United Kingdom, and
>
> (c) there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.

**Analysis**

21. I do not consider the judge to have fallen into error as contended in the first of the respondent's grounds. He did not cite Binbuga or the authorities to which Ms Tufan referred but he was clearly cognisant of the nature of the respondent's submissions in this regard. The respondent submitted that the appellant had demonstrated, by his repeat offending,

[1] That designation is not of statutory origin; it is the convenient shorthand adopted in NA (Pakistan) v SSHD [2016] EWCA Civ 662; [2017] 1 WLR 207 for those who received a sentence of imprisonment of between 12 months and 4 years.

that he had severed his integrative links to the United Kingdom. The judge clearly took that submission into account and made a finding of fact, at [81] and [92], that the appellant was nevertheless socially and culturally integrated.

22. It is relevant to recall, in this context, what was recently said by Leggatt LJ (with whom Hickinbottom LJ and the Senior President of Tribunals agreed) in CI (Nigeria). At [56], Leggatt LJ confronted the very question of principle at issue in this case: 'how the offence committed by a foreign criminal and sentences of imprisonment imposed for those offences are relevant to the test of social and cultural integration'. At [57], Leggatt LJ underlined the need to bear in mind the rationale behind the test, which he stated was 'to determine whether the person concerned has established a private life in the UK which has a substantial claim to protection under Article 8'. At [58], having referred to Uner v The Netherlands (2007) 45 EHRR 14, he considered the multifaceted nature of the enquiry, which encompassed not only relevant social ties but also the familiarity with the shared values of the community. He referred, by reference to Maslov v Austria (2008) 47 EHRR 20, to the special situation of aliens who have spent most or all of their childhood in the host country.

23. At [60]-62], Leggatt LJ considered the significance of offending and imprisonment in the s117C(4)(b) enquiry. Recalling what had been said in Binbuga, he accepted that an individual could not place positive reliance on associations with pro-criminal groups in an attempt to demonstrate integration. At [61], Leggatt LJ held that offending and imprisonment were also 'in principle relevant insofar as they indicate that the person concerned lacks (legitimate) social and cultural ties in the UK'. At [62], however, he stated:

> "Clearly, however, the impact of offending and imprisonment upon a person's integration in this country will depend not only on the nature and frequency of the offending, the length of time over which it takes place and the length of time spent in prison, but also on whether and how deeply the individual was socially and culturally integrated in the UK to begin with. In that regard, a person who has lived all or almost all his life in the UK, has been educated here, speaks no language other than (British) English and has no familiarity with any other society or culture will start with much deeper roots in this country than someone who has moved here at a later age. It is hard to see how criminal offending and imprisonment could ordinarily, by themselves and unless associated with the breakdown of relationships, destroy the social and cultural integration of someone whose entire social identity has been formed in the UK. No doubt it is for this reason that the current guidance ("Criminality: Article 8 ECHR cases") that Home Office staff are required to use in deciding whether the deportation of a foreign criminal would breach article 8 advises that:

> "If the person has been resident in the UK from a very early age it is unlikely that offending alone would mean a person is not socially and culturally integrated."'"

24. The judge did not cite this, or any, authority but his approach to the question posed by s117C(4)(b) was precisely in line with CI (Nigeria) and the guidance cited by Leggatt LJ. The appellant came to the United Kingdom when he was four. He enjoyed ILR from the age of five. He was educated and brought up here, gaining a number of GCSEs. As the judge also noted, he continues to have relationships and friendships in the country, as one would expect in these circumstances. His offending took place over a three year period, between the autumn of 2015 and the spring of 2018. As a result of the index offence, he was to spend less than eighteen months in a Young Offender's Institution. (As is clear from HHJ Plaschkes QC's sentencing remarks, the appellant was to serve half of the total sentence of detention before being released on licence, but he also received a deduction of 105 days from that term because he had spent 210 days on a qualifying curfew.) The total amount of time in custody for the offence was therefore around 15 months.

25. The enquiry under s117C(4)(b) is highly fact-sensitive, as is clear from the decision of the Court of Appeal in AM (Somalia), at [73] in particular. The judge at first instance in that case was entitled to find that the offender's significant offending over a lengthy period constituted a 'serious discontinuity' in the integration he had accrued since arriving in the UK at the age of two. The judge at first instance in this appeal was, in my judgment, entitled to reach the opposite conclusion. There is no indication in his decision that he adopted an approach which was at odds with the authorities and it is not established, in particular, that he focussed entirely on the past, as Mr Tufan was at one point minded to submit. The judge plainly took into account the current position; so much is clear from his evaluation of the significance of the appellant's offending.

26. For all of these reasons, I reject the respondent's first ground of appeal and conclude that the judge was entitled to conclude, for the reasons that he gave, that the appellant is socially and culturally integrated into the UK.

27. I do find that the judge fell into error in his consideration of s117C(4)(c), however. It was a signal feature of this case that the judge received very little assistance from the parties on the vast body of case-law concerning the deportation of foreign criminals. There is no reference to authority in the letter of refusal. The grounds of appeal and the case summary contain nothing of assistance.

28. The skeleton argument which was given to the judge is quite astonishing, in that it runs to twenty pages of single-spaced type and contains not a single reference to any decided case on the public interest in the deportation of foreign nationals under Part 5A of the Nationality,

Immigration and Asylum Act 2002. Rather than citing any of the cases from the Upper Tribunal or the Court of Appeal on s117C, there is reference to Bulale v SSHD [2008] EWCA Civ 806; [2009] QB 536, a case concerning deportation under the regime applicable to European nationals. There is also, inexplicably, lengthy citation from Mugwagwa [2011] UKUT 338, concerning the proper approach to certificates under s72 of the 2002 Act. There was no such certificate in this case, nor had there ever been any suggestion of an asylum claim. There were cases cited concerning the separate scheme (under the Immigration Rules) for the revocation of deportation orders, including Smith [2017] UKUT 166 (IAC) and SSHD v ZP (India) [2015] EWCA Civ 1197; [2016] 4 WLR 35. The relevant statutory scheme was finally set out at page 14 but the authorities which were then drawn to the judge's attention (including Hesham Ali) all concerned the statutory framework preceding the insertion of Part 5A by the Immigration Act 2014.

29. It seems that no relevant authority was drawn to the judge's attention in relation to s117C in the oral submissions made by the representatives. If he was to apply the law correctly, therefore, it was for the judge to perform the task of the representatives and to ascertain for himself what guidance had been given on the proper approach to these statutory provisions. He should not have been placed in that position by either side.

30. In respect of s117C(4)(b), the judge fortuitously adopted the correct approach when he found that the appellant remained culturally and socially integrated. As I have explained above, the approach which underpinned his conclusions was consonant with CI (Nigeria). In respect of s117C(4)(c), however, he fell into error because his decision demonstrates no consideration of the threshold of difficulty (*very significant* obstacles) required by that limb of the test. The judge certainly considered relevant factors; so much is clear from the parts of the decision which I have set out or summarised above. The fact that the appellant had not been to Jamaica since the age of four, the absence of contact with family members there, the short-term support which might be provided by the relocation package provided by the UK; all of these were undoubtedly relevant to the judge's enquiry. They undoubtedly established that the appellant might have difficulty on return to Jamaica. What the judge was required to consider, however, was whether the matters he set out at [82]-[91] gave rise to *very significant* obstacles to the appellant's integration on return to Jamaica.

31. In SSHD v Kamara [2016] EWCA Civ 813; [2016] 4 WLR 152, Sales LJ (as he then was) considered a case in which the judge in the Upper Tribunal had noted that the use of the word 'very' showed that the threshold was a high one: [12]. It was in that context that Sales LJ stated that it would usually be sufficient for the tribunal 'simply to direct itself in the terms that Parliament has chosen to use'. He continued as follows:

> "The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life."

32. In Parveen v SSHD [2018] EWCA Civ 932, the Court of Appeal came to consider not only what had been said by Sales LJ (as he then was) in Kamara, which was focused on the concept of 'integration' but also what had been said by the Upper Tribunal in Treebhawon [2015] UKUT 674 (IAC) concerning the concept of 'very significant obstacles'. Underhill LJ, with whom Gloster LJ and Asplin LJ agreed, largely disapproved what had been said by the Upper Tribunal and stated, instead, that

> "The task of the Secretary of State, or the Tribunal, in any given case is simply to assess the obstacles to integration relied on, whether characterised as hardship or difficulty or anything else, and to decide whether they regard them as "very significant"."

33. In AK (Kosovo) v SSHD [2018] EWCA Civ 2038, the Court of Appeal (Flaux, Moylan and Leggatt LJJ) emphasised the forward-looking nature of the exercise required, and held that the Tribunal in that case had focused unduly on the appellant's remaining ties to Kosovo, rather than the broader question of the difficulties he would encounter on return.

34. In my judgment, the judge in this case fell into the same error as the judge in AK (Kosovo). The majority of his assessment concerned the ties which the appellant no longer had with Jamaica. He was not persuaded that there was any significance in the appellant's epilepsy, given the absence of evidence that he would not receive treatment for that condition. At [89], in considering whether the appellant could work in Jamaica he returned again to the absence of 'meaningful links to Jamaica' and at [90] there was a rather opaque reference to the appellant's susceptibility to criminal elements. There was, with respect to the judge, little if any consideration of the appellant's real ability to operate on a day-to-day basis in Jamaica.

35. The judge also erred, as stated earlier, in failing to consider whether any difficulties encountered by the appellant would be 'very significant'. The concluding words of [91] "would not in my view be sufficient to enable him to successfully integrate into that country" positively suggest that he was applying a lower threshold than the elevated one required by s117C(4)(c) itself.

36. I accept Mr Knight's submission that the judge is experienced, and I take that into account. Mr Knight did not remind me of what was said in cases such as AH (Sudan) v SSHD [2007] UKHL 49; [2008] 1 AC 678 - that the

FtT is an expert Tribunal whose decisions should not be subjected to an unduly critical analysis, and that in understanding and applying the law in their specialist field it is probable that the Tribunal will have got it right – but I have nevertheless borne those dicta firmly in mind. I am nevertheless driven to conclude that this experienced judge, who received no real assistance on the applicable law, fell into error as contended in ground two. He focused unduly on the appellant's ties to Jamaica rather than undertaking a broad, forward-looking evaluation of his difficulties on return to that country. And he failed, in any event, to consider whether the difficulties to integration which he had identified were 'very significant'. Whilst the judge cited the statutory provision in question, I am unable to conclude that he approached his task in the manner required by the authorities.

37. In the circumstances, I conclude that the decision of the FtT was marred by legal error but only in relation to its analysis under s117C(4)(c). That question and, if necessary, the question of whether there are very compelling circumstances which outweigh the public interest in deportation, must be reconsidered. There having been no criticism of the judge's primary findings of fact, that assessment can take place on the basis of the findings which the judge made at [81]-[92], together with any submissions the advocates make orally or in writing. Given the limited scope of that enquiry, I order that the decision on the appeal shall be remade in the Upper Tribunal. For the avoidance of any doubt, the findings made in relation to s117C(4)(a) and (b) are preserved, as are the findings of fact made by Judge Cameron at [81]-[91] of his decision.

**Notice of Decision**

The decision of the FtT involved the making of an error of law and that decision is set aside in part. The decision on the appeal will be remade in the Upper Tribunal.

No anonymity direction is made.

*M.J. Blundell*

Judge of the Upper Tribunal
Immigration and Asylum Chamber

1 October 2020