



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/09058/2019**

THE IMMIGRATION ACTS

Heard at George House, Edinburgh  
On 24 November 2021

Decision & Reasons Promulgated  
On 02 December 2021

Before

UT JUDGE MACLEMAN

Between

**ALI MUHAMMED ALI**

Appellant

and

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

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Maguire, Solicitors  
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. FtT Judge Buchanan dismissed the appellant's appeal by a decision promulgated on 19 February 2021.
2. On 3 March 2021, the appellant applied for permission to appeal to the UT.
3. Ground 1 is headed "psychological report":

The FtT erred in law at [10.3-10.4, 12.12 and 12.14] by taking too narrow an interpretation to the psychologist's report. On a plain reading ... the psychologist's view impacts on the appellant's ability to accurately recount historic events. Further there is no true inconsistency [detected] at [12.11]

where the flashbacks are not necessarily an accurate memory of what happened. ... the FtT has not recognised that the report may provide reasonable explanations for any perceived discrepancies, inconsistencies or omissions ...

4. The FtT granted permission on 14 April 2021, observing:

... the expert, Dr Richards, mentioned as an example of the appellant's difficulties with his memory that, "... he forgets what people have asked him after 5 minutes ... friends tell him he repeats himself having forgotten what he has already told them ...". The Judge at [10.3] characterised [that] as arguably reflecting "... a problem recalling recent questions and answers; not a problem of positively but inaccurately recounting historic events" ... arguably an irrational finding as Dr Richards identified the appellant as suffering from "... current memory and concentration difficulties" at [10.4] ... Dr Richards' opinion arguably established ... that the appellant might have difficulty recalling historic events as well ...
5. The grant of permission does not exclude grounds 2 and 3. They might not lead anywhere, in absence of ground 1, but in view of the outcome below, there were no submissions on grounds 2 and 3, and they need not be explored.
6. Mr Diwyncz accepted that the Judge's analysis was to the effect that expert evidence of current difficulties with memory and concentration had no bearing on ability to give accurate and consistent answers on historic events. He was unable to support that approach, because such difficulties might go some way to explaining shortcomings in the evidence. He further acknowledged, with his customary fairness, that although this was not the entirety of the FtT's reasoning, and even if no other errors were established, the matter played an important part in the outcome, such that the decision could not safely stand.
7. Parties agreed that the outcome should be as follows.
8. The decision of the FtT is set aside, other than as a record of what was said at the hearing. Under section 12 of the 2007 Act, and under Practice Statement 7.2, the case is remitted to the FtT for a fresh hearing, not before Judge Buchanan.
9. No anonymity direction has been requested or made.



25 November 2021  
UT Judge Macleman

### 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.