



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number PA/10285/2019 (V)**

THE IMMIGRATION ACTS

**Heard by *Skype for Business*
on 12 May 2021**

**Decision & Reasons Promulgated
On 26 May 2021**

Before

UT JUDGE MACLEMAN

Between

B S A

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

*For the Appellant: Mr S Winter, Advocate, instructed by Jones Whyte LLP,
Solicitors, Glasgow*

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Iraq, aged 57. FtT Judge David C Clapham SSC dismissed his appeal by a decision promulgated on 17 March 2020.
2. The appellant applied to the UT on the grounds set out as 1 (i) – (vii), 2 and 3.
3. UT Judge L Smith granted permission, principally on ground 1, finding it arguable that the judge erred on a fingerprint match in Baghdad “where no actual evidence of the print was produced, the maker of the statement

was not available for cross-examination and there was other evidence which may have rebutted that evidence". Grounds 2 and 3 were not excluded.

4. The appellant has filed a skeleton argument in response to directions, amplifying his grounds.
5. Mr Walker conceded that ground 1 disclosed error. He said that while it was open to the FtT to conclude that the appellant had been in Baghdad in 2018, the judge took the assertion of a fingerprint as conclusive without evaluating the strengths and weaknesses of all the evidence on the point.
6. Parties agreed that the outcome should be as follows.
7. The decision of the FtT is set aside. The case is remitted for a fresh hearing, not before Judge Clapham.
8. The FtT may wish to consider holding a case management review hearing, with a view to putting the evidence in better order. The respondent's lengthy bundle is unpaginated in its paper version. It may be possible to make it available as a PDF for ease of reference. Also, the parties are likely to tender additional evidence.
9. An anonymity direction remains in place.

Hugh Macleman

12 May 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.