



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

Appeal Number: PA/04258/2019

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 28 October 2019**

**Decision & Reasons Promulgated  
On 27 November 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**FALIH [A]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant:

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

**DECISION AND REASONS**

1. The appellant was born on 1 February 1978 and is a male citizen of Iraq. He was convicted on 3 May 2016 of possession with intent to supply a controlled class B drug (cannabis) and breach of a suspended sentence. He was sentenced to a total of 21 months' imprisonment. The appellant was served with a notice of intention to deport him on 20 May 2016. His international protection/human rights claim was rejected by the respondent by decision dated 10 April 2019. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 31 July 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Mr Diwnycz, who appeared for the Secretary of State before the Upper Tribunal, told me that the appeal was not opposed. I shall therefore be brief. In his analysis at 63.c the judge found that 'the appellant does not report significant worsening of his motion regulation or impulsivity or experiencing memory deficits following the alleged assault.' That finding arose from the judge's acceptance of the medical expert's report dated 9 July 2019. However, the medical expert had in fact stated the opposite: '[the appellant] does report significant worsening is a motion regulation impulsivity and experiencing memory deficits following the alleged assault... [the appellant] had some anger issues and impulse control issues prior to the assault in 2016 similar pattern of worsening of these pre-existing features are well known in brain injuries. Some of these difficulties are evident in the assessment I carried out with [the appellant].' I find that the judge's analysis and conclusions have been based upon an erroneous assessment of the expert evidence. Accordingly, I set aside the decision. None of the findings of factual stand. The appeal is returned to the First-tier Tribunal for that tribunal to remake the decision following a hearing.

### **Notice of Decision**

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision.

Signed

Date 2 November 2019

Upper Tribunal Judge Lane