



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

Appeal Number: PA/04287/2019

THE IMMIGRATION ACTS

Heard at Edinburgh  
On 13 February 2020

Decision & Reasons Promulgated  
**On 4 March 2020**

Before

UT JUDGE MACLEMAN

Between

**B R S**

and

Appellant

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

Respondent

For the Appellant: Mr E MacKay, of McGlashan MacKay, Solicitors  
For the Respondent: Mr M Clark, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This is an appeal against the decision of FtT Judge Farrelly, promulgated on 1 October 2019.
2. The grounds are set out in an application dated 15 October 2019, characterised at [3] as failure to give adequate and comprehensible reasons, at [4] as making a decision no reasonable judge would have made, and at [5] as failure to adopt the correct approach to credibility.

3. The FtT granted permission on 25 November 2019, on the view that arguably a reasonable person would be unable to understand how the judge reached his decision.
4. In a rule 24 response dated 5 December 2019 the SSHD submits that adequate reasons are given.
5. The grounds fall short of showing this to be a decision which could not reasonably have been reached; but in the rule 24 reply, and in submissions, the respondent has not been able to identify reasons in the decision, taking it beyond the judge's general impression of a fabricated claim.
6. Mr Clark pointed to [37]; but that explains why the authorities were not likely to offer protection, not why the account was not credible, as stated "consequently" at [38].
7. Although delay in making the decision was not a ground of appeal, it may not have helped that there was an unexplained lapse of almost 3 months between hearing and promulgation.
8. The decision of the FtT is set aside. It stands only as a record of what was said at the hearing.
9. There is a presumption that the UT will proceed to remake decisions, of which parties are reminded in directions issued with the grant of permission. However, the nature of the case is such that it is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for an entirely fresh hearing.
10. The member(s) of the FtT chosen to consider the case are not to include Judge Farrelly.
11. The FtT made an anonymity direction, which is maintained herein.



13 February 2020  
UT Judge Macleman