



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00625/2020 (V)

THE IMMIGRATION ACTS

Heard by a remote hearing
On the 7 July 2021

Decision & Reasons Promulgated
On the 3rd August 2021

Before

UPPER TRIBUNAL JUDGE REEDS

Between

SULTAN ALI
(ANONYMITY DIRECTION NOT MADE)

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms L. Brakaj, instructed on behalf of the appellant.

For the Respondent: Mr C. Bates, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellant, a citizen of Bangladesh, appeals with permission against the decision of the First-tier Tribunal (Judge Frantzis) (hereinafter referred to as the "FtT") who dismissed his protection and human rights appeal in a decision promulgated on the 28 January 2021.
2. The FtT made a direction regarding anonymity under Rule 13 (1)(b) of the Tribunal Procedure (First-tier Tribunal) (IAC) Rules 2014 in view of the

appellant having made a protection claim. However his appeal on this basis was dismissed by the FtTJ for the reasons set out at paragraphs 19-22 and the grounds of challenge before the Upper Tribunal do not seek to challenge that aspect of the appeal. There are therefore no grounds to continue the anonymity direction and no grounds have been advanced at the hearing for such an order to continue. It is therefore discharged.

3. The hearing took place on 7 July 2021, by means of *Microsoft teams* which has been consented to and not objected to by the parties. A face-to-face hearing was not held because it was not practicable, and both parties agreed that all issues could be determined in a remote hearing. The advocates attended remotely as did the appellant so that he could see and hear the proceedings being conducted. There were no issues regarding sound, and no technical problems were encountered during the hearing and I am satisfied both advocates were able to make their respective cases by the chosen means.

Background:

4. The history of the appellant is set out in the decision of the FtTJ, the decision letter and the evidence contained in the bundle.
5. The appellant is a national of Bangladesh and claims to have entered the UK in November 1998 and remained in the country since.
6. On 3 September 2004 he applied as a spouse of a settled person to remain in the United Kingdom. The application was avoided in February 2012.
7. On 22 May 2009 the appellant was encountered and served with an ISO 151 a for illegal entry; document abuse.
8. On 26 March 2010 the appellant made a human rights article 8 application and leave was initially refused in February 2012 but he was granted discretionary leave on 2 January 2013 with an expiry date of 12 March 2013. As recorded at paragraphs 3 -4 of the decision of Judge Lewis, the appellant was granted a short period of leave in the light of ongoing family proceedings where the appellant was seeking to secure an order for contact in respect of his children. Those proceedings were concluded in February 2013 when his application for direct contact with the 2 children was refused and a direction was that the mother should permit and encourage indirect contact.
9. On 11 March 2013 he made a further application for variation of leave to remain (on article 8 grounds) which was refused on 29 April 2013 on which date the respondent also made a section 47 removal decision. The respondent's position was that the appellant had only been granted a variation of leave to remain in order to pursue family proceedings which had now concluded and the outcome of the proceedings was that he was not have direct contact with the children but could exercise indirect contact from Bangladesh.

10. The appellant appealed that decision and it came before FtTJ Lewis initially on 14 January 2014. He recorded in his decision that there was limited available documentary evidence concerning the exact nature of his application and supporting evidence in relation to the children and the judge further recorded at paragraph 8 of his later decision that his concerns were informed “to some extent by the uncertainty and vagueness on the part of the appellant and his representative”. As a result the judge adjourned the hearing and sought further evidence from the family Court. He set out the nature of that evidence of paragraph 10 which in essence the judge found defeated his reliance on those proceedings.
11. On 10 October 2014 the appeal came again before Judge Lewis and at paragraph 12 the judge set out the basis of his claim and that in resisting removal from the UK sought to rely upon a combination of factors under article 8; that he contracted a religious marriage and resided with her 2 children from a previous marriage, the length of time had been in the UK having arrived in 1998 and his evidence, the presence of the system in the UK and that he suffered from kidney problems. Submissions were also made that removal would inhibit any future prospects of him developing a relationship with the children.
12. The FtTJ’s findings and reasons are set out in paragraphs 16 – 47. For the purposes of this decision it is not necessary to set out all of those findings and I only set out those which are relevant to the decision that this tribunal is required to consider.
13. As to the position concerning contact with children, the judge found that he was in a position to comply with the terms of the order in Bangladesh as he was anywhere else in the UK (at paragraph 27).
14. In terms of length of residence in the UK the FtTJ recorded the following:
 - (1) it is the appellant’s case is the entered the UK in November 1998 with the aid of an agent and has remained here ever since.. (at [29]).
 - (2) There is no supporting documentary evidence of the appellant’s claim of arriving in November 1998. However the appellant’s sister provided supporting testimony that he had resided in the UK since November 1998 (at [30]).
 - (3) At paragraph [32] the FtTJ stated, “whilst I have my reservations as to the appellant’s credibility, particularly in regard to his motives in pursuing the 2nd set of contact proceedings, and also in respect of his evidence relating to his more recent marriage – I am prepared to proceed on the assumption that his sister is truthful in stating that he arrived in November 1998 and has remained in the UK ever since. However for the same reasons given by the respondent, I find this does not avail the appellant under the rules in respect of private life. Nor, in my judgement has the appellant offered any documentary evidence or testimony

concerning his private life (as distinct from his claims in respect of family life) that would warrant a departure from the rules. He has provided very little evidence of his activities in the UK: essentially has made reference to some recent employment, but otherwise relies upon his relationship with his sister and his 2nd wife.”

- (4) As to the relationship with his sister, the judge recorded that the appellant had stated he had built up close ties to his sister and family members but that “he does not provide any particulars in either of his witness statements”. The judge referred to his sister’s witness statement which had an assertion in it that she had been supporting him financially and emotionally since his arrival but the judge noted “there is otherwise no particularisation of the relationship between her and the appellant, or between her and family members in the appellant. Nor is there any other supporting evidence in this regard.” (at [36]) .
- (5) At [37] the FtTJ stated, “in my judgement there was a vagueness in the oral testimonies of the witnesses as to exactly where the appellant has been living and exactly how he supports and has been supporting/himself. I do not consider that I have been given a full and frank account of the appellant’s circumstances either currently or throughout his considerable time in the UK: for example, I do not accept that more than the appellant was supported by his sister during the pendency of his 1st marriage.”
- (6) At [38] the FtTJ stated “I accept that the appellant sister is loyal to him as demonstrated by her support in these proceedings. Nonetheless, there was no amplification in the oral testimony as to the nature and quality of the supposed interrelationship between the appellant’s sister, and with her family.
- (7) The FtTJ recorded that at paragraph 39 onwards that the appellant sought to place very significant reliance on having established a family life with B to whom he had married in an Islamic ceremony in 2013. At paragraphs 40 – 42 the FtTJ set out a number of adverse credibility points which included the evidence concerning the relationship between the appellant and that the evidence as to the contracting of the marriage was unsatisfactory in a number of material aspects. The judge also noted at paragraph 41 that B’s testimony was not consistent with the appellant’s evidence and that the judge reached the conclusion that “the appellant, with the assistance of his sister identified a potential person with whom a marriage could be arranged for the sole purpose of securing an immigration advantage. I also conclude that it is more likely than not that B was complicit in the matter...”
- (8) At [43] the FtTJ stated as follows “I find that the appellant has been an untruthful witness. I do not accept that he is a genuine marital relationship with B. I find that he deliberately set out identifying a suitable person who would be prepared to be a party to a non-genuine relationship

in order to assist him in securing an immigration advantage; and further that he determined to keep such a marriage “in reserve” in the event that his contact proceedings did not achieve the desired result of securing further leave to remain. I find that both the appellant’s sister, and B have been complicit in this matter.” The judge went on to find that the appellant had only pursued the 2nd set of contact proceedings with a view to securing an immigration advantage.

- (9) The judge concluded that he had not identified any difficulties that he might face in returning to Bangladesh (at [44]), that there was no family life and that is not been shown that the decision of the respondent was in breach of the appellant’s human rights (at [48]). The FtTJ therefore dismissed the appeal.
15. The appellant remained in the UK. It is recorded in a letter dated 11 December 2020 that from the respondent’s records, the appellant reported in person to the Home Office on 19 October 2015 and every 2 weeks thereafter until 4 January 2016. The computer records reveal that on 16 January 2016 and 15 February 2016 the Home Office received a telephone call saying that the appellant was too unwell to report. Nothing more was heard from the appellant and he was considered to be an absconder.
16. On 30 August 2018 the appellant was encountered, arrested and detained.
17. On 24 September 2018 he made a claim for asylum.
18. The application was refused on the 8 January 2020.
19. The appellant appealed that decision.

The decision of the First-tier Tribunal:

20. The appeal came before the FtT on 12 January 2021. The FtTJ set out the issues at paragraphs 9- 10. Paragraph 10 set out a summary of the issues relevant to his protection claim and at [10] the FtTJ stated:
- “In respect of his appeal under Article 8 ECHR, the Appellant argues that:
- a. He arrived in the United Kingdom in November 1998;
 - b. He has continuously resided in the United Kingdom since that time;
 - c. Despite relying on the length of his residence in the United Kingdom from the point he claimed protection (24th September 2018), it was not until 6th November 2019 that the Appellant made a specific application under paragraph 276ADE(1)(iii) of the Immigration Rules by which point he had been living in the United Kingdom for over 20 years;
 - d. The Appellant was not required to make a valid application under paragraph 276ADE(1)(iii) (ie a fee paid application on a specified form) because he had made his application on 6th November 2019 as

part of his ongoing asylum claim (paragraph 276AO Immigration Rules refers).

Ms Brakaj confirmed that the appeal was brought on no other factual or legal basis”.

21. The FtTJ set out her analysis and conclusions as to the protection claim at paragraphs at 22-23 and reached the conclusion the Appellant was not entitled to international protection because there he has not established that there is any risk to him on return to Bangladesh. It is not necessary to set out that analysis as there has been no challenge in the grounds to the rejection of his protection claim. The grounds only seek to challenge the assessment of whether he had established 20 years continuous residence.
22. The FtTJ heard evidence from the appellant and a witness and had a bundle of documentary evidence upon which the appellant relied. The FtTJ set out her analysis of the evidence at paragraphs [25]- [38] which included the oral evidence of the appellant, the casino evidence, evidence from his solicitor, the telephone call logs and the evidence of his witness after which she concluded that having stood back and considered all of the evidence before her “in the round”, she found that the evidence of the appellant’s residence in the United Kingdom between January 2016 and June 2018 (when he contacted the solicitors) to be “unreliable and unsatisfactory”.
23. The FtTJ concluded that she was not satisfied on the balance of probabilities that on the evidence before her that the appellant had shown that he resided in the United Kingdom between January 2016 and June 2018 when he re-established contact with the solicitors. The judge also recorded that no other factual features were relied upon in the article 8 appeal and at paragraphs 44 – 56, concluded that the facts of the appellant’s case were not sufficiently strong or compelling to outweigh the public interest identified by the respondent and therefore the decision was proportionate and not unlawful under section 6 of the Human Rights Act 1998. The appeal was dismissed on all grounds.
24. Permission to appeal was sought and permission was granted by FtTJ Page on 3 March 2021 for the following reasons:

“The appellant’s sole ground of appeal identifies an arguable error of law by the judge. The appellant complains that evidence of attendance at a casino to show that he had been a customer for 20 years was rejected unlawfully. The grounds of appeal allege that in the appellant’s previous appeal in 2015 much of that evidence was accepted by the judge who dismissed the appeal on other grounds. Consequently, they argue the judge has misapplied Devaseelan in not taking the previous findings about the history of casino attendance as the judge’s starting point.[I note from paragraph 13 of the judge’s decision that the respondent had accepted it was likely that the appellant had been resident in the UK between 1998 and 2016 but did not accept that he had been resident from 2016 until he was detained on 30 August 2018. He may have 20 years residence. The grounds

of appeal say there was no evidence to show the appellant had left the UK since 2016.] Permission to appeal is granted on all grounds.”

The hearing before the Upper Tribunal:

25. In the light of the COVID-19 pandemic the Upper Tribunal issued directions on the 20 May 2021, inter alia, indicating that it was provisionally of the view that the error of law issue could be determined without a face-to-face hearing and that this could take place via a remote hearing. Neither party has made any representations as to the mode of hearing following the listing of the appeal. Therefore, the Tribunal listed the hearing to enable oral submissions to be given by each of the parties. I am grateful for their assistance and their clear oral submissions.
26. Ms Brakaj, who had appeared before the First-tier Tribunal appeared on behalf of the appellant and relied upon the written grounds of appeal.
27. Mr Bates, senior presenting officer appeared on behalf of the respondent.
28. I also heard the oral submissions of the parties and I am grateful for the clear and helpful submissions made by the advocates.

The submissions:

29. Dealing with paragraphs 1-5 of the grounds Ms Brakaj submitted that the question before the judge was whether the appellant had resided in the UK for 20 years. A significant aspect was whether he had left the UK as this was the only way he could have broken his residence.
30. The starting point to this conclusion was not challenged and there was no dispute that it would be highly unlikely that he left the UK and that there was no evidence of being witnessed in any 3rd country or that he left and re-entered any country illegally or legally and he was not fingerprinted in any country. Thus the starting point must be that it was highly unlikely that he left the UK.
31. At paragraph 40 the FtTJ found that the appellant had used an agent to gain unlawful entry into the United Kingdom and also that he been found by the judge in 2015 to have sought to deceive the immigration authorities. However as paragraph 5 of the grounds sets out the judge failed to take account of the principles in the decision of Devaseelan. In the previous decision of Judge Lewis at paragraphs 30-32 the judge made reference to the supporting testimony of his sister that he had resided in the UK since November 1998 and at paragraph 32 the judge stated that he was prepared to proceed on the assumption that his sister was truthful stating that he arrived in November 1998 and has remained in the UK ever since. Ms Brakaj submitted that when the judge considered the appeal in 2014 the judge found that he had been in the United Kingdom from 1998 until the date of the decision and therefore she submitted his decision could not be used to any negative degree as the judge

had already concluded in his favour. In other words, the findings made by Judge Lewis could not be used to suggest that he may have left the UK would at the same time it had been concluded that he had resided continuously in the UK up to that point.

32. Ms Brakaj submitted that the decision in Devaseelan had not been applied and that in 2014 the appellant has no documentary evidence of residence but the judge concluded on the oral residence based on the account that he was residing with the same family members the judge found for him on that issue. She therefore submitted any questions raised in the documentary evidence did not point to him having left the UK.
33. She submitted that the judge's approach was flawed for failing to apply the Devaseelan principles and it had been accepted that there had been a period of residence. She further submitted that there had been no consideration of the fundamental question of whether having resided in the UK if he had left other than at [40] that it was highly unlikely that he did. Ms Brakaj therefore submitted that there was an incorrect approach adopted by the judge to require documentary evidence of residence when this was not the test.
34. Ms Brakaj submitted that when looking at documents the FtTJ's assessment was flawed and in the context of the evidence from the casino. She submitted that it had been accepted that he had been gambling and had lost money through this and that the records at page 26 came from the same casino. The record showed a period of attendance from 2000 onwards and therefore covers a period during which the appellant had been resident in the UK at a time when it was accepted he had attended a casino. She referred the tribunal to paragraph 27 of the FtTJ's decision and that it had been submitted by the respondent that there was nothing to confirm the identity of the person using the account and photographic evidence however Ms Brakaj submitted that this related to a period when it was accepted that the appellant was resident in the UK.
35. By reference to the records at page 33 of the appellant's bundle, the 1st entry was 7 March 2000 and he attended with greater frequency during those years in a period where it was accepted he was resident. Thus she submitted it was difficult to see what identity documentation would relate to his attending the casino during the time in dispute where there was no doubt that he'd been attending there in the year 2000. Ms Brakaj submitted that there will be no purpose in him opening account and a false ID.
36. Ms Brakaj referred to paragraph 8 of the grounds which referred to the decision at paragraph 31. She submitted that the paragraph suggested his attendance at a casino was not consistent with obtaining money from relatives and working illegally but it was unclear why this would be the case as money obtained from working illegally or legally could be used at a casino. In his asylum interview he stated he didn't attend frequently any more. This was an interview which

took place in October 2019 (see questions 132 – 133) which demonstrated that his account was not inconsistent.

37. Furthermore that evidence, she submitted showed that he had paid money into the account in 2016 – 2018 and that thereafter it was less frequent. Ms Brakaj further submitted there was no evidence of his attendance at the casino at the time that he was in detention (from 30th of August 2018 until a date she could not be precise about either at end of September early October 2018) and that this was indicative of him not using a third party. She stated in his screening interview he gave an address in Newcastle.
38. Ms Brakaj submitted that when looking at the casino visits there were no visits in 2019 which was consistent with the SEF interview that he was not attending at that time and there was a limited number of visits when he had not gambled and no evidence that he paid any money in and that the mounts that had been paying in had been significantly less. His answers interview do not detract from the entries from January 2016 until June 2018 that he'd been attending the casino during that period. His evidence that he been attending a casino in Southampton was consistent with his sisters evidence that he was living in Southampton during that period.
39. Ms Brakaj submitted that the effect of the findings made by the judge placed a burden on the appellant to provide evidence of a "certainty" but there was nothing incredible in his account of attending the casino.
40. As to the type of evidence to show residence Ms Brakaj submitted that in other applications the respondent required bills with addresses on and with a named individual and that was sufficient. Here the appellant has produced evidence of him entering a casino but was being asked to go further and prove that this could not have been anyone else. Thus it placed a great burden on him as to what he was required to show.
41. Finally dealing with paragraph 9 of the grounds, it was submitted that whilst there was a concerns raised by the judge regarding Mr R's evidence the judge reached no conclusions as to whether the witness had been truthful regarding the appellant staying with them during the period in time. His evidence was that he had seen him on occasions and using the home as a base. Therefore she submitted there was nothing to suggest the appellant left the UK and had not accrued 20 years.
42. Mr Bates on behalf of the respondent submitted that the FtTJ had properly applied the decision in Devaseelan and that the decision in reality gave limited assistance in determining the period in dispute given that it occurred as a consequence of the appellant's absconding and therefore whether he remained in the UK after the previous decision made by Judge Lewis.
43. Whilst the FtTJ accepted the appellant had entered the UK 1998, the judge addressed the issue at [40] and acknowledged the argument that it was highly

unlikely that he had not left but did not accept that argument for the reasons given. The judge took into account that during that period the appellant had no direct contact with his child and that this reduced the likelihood of any stay in the UK. The judge further noted that in 1998 the appellant had entered the UK without the knowledge of the authorities and that was a relevant consideration to being able to re-enter and demonstrates an ability on his part to travel freely and illegally. The judge also took into account the previous tribunal's adverse findings. Thus he submitted paragraph 40 set out significant adverse credibility findings.

44. Mr Bates further submitted that in the context the period of dispute was not an inconsiderable period of time and that his past conduct in entering and leaving illegally was a consideration to take into account. The judge was not required to obtain confirmation from another country. The judge was entitled to look at this on the balance of probabilities the burden being on the appellant and the judge was satisfied that the appellant had not demonstrated that he was present in the UK and set out the reasons for reaching that decision.
45. As regards the evidence, he submitted the documentary evidence was challenged as set out at paragraph 27 of the decision. The presenting officer pointed out that the casino records stated the appellant's name but there was no evidence of the casino confirming which individual was using the identity on each occasion. Mr Bates submitted that whilst the evidence purported to come from the casino, there was nothing from the casino itself in terms of a statement to confirm its accuracy. The presenting officer therefore made the argument that the list of entries which may or may not related to the appellant and there had been no other evidence to link him to it and there were no bank transactions showing money withdrawn and deposited with the casino. Therefore the judge properly applied the decision in Tanveer Ahmed as to the weight and reliability to that evidence. The judge did not find that to be reliable evidence for the reasons that she gave. The judge considered the inconsistency in the appellant's oral evidence at paragraph 32 about registering with the casino and the evidence given in re-examination. Even if the appellant attended in the past the judge was not satisfied that it was others using the same identity. There was nothing from the casino themselves to support his claim. Therefore the judge was considering it in the context of someone who had absconded and had been found to be an untruthful witness in the past and during this appeal (given the rejection of the protection claim) and therefore the judge was entitled to consider that the evidence from the casino was not reliable and therefore to attach less weight to it. This was not evidence covered by the decision of Judge Lewis and the judge had genuine concerns about that evidence. He submitted the grounds of therefore a disagreement with the assessment but not an error in law.
46. Mr Bates admitted that the judge looked at the evidence holistically including the letter from the solicitor at paragraphs 34 and 35 and the telephone calls at paragraph 36.

47. As regards the appellant's witness, the judge gave reasons as to why his evidence was vague and contradictory. The judge identified a significant inconsistency at paragraph 38. In the light of the significant inconsistency is the judge was entitled not to touch weight to the evidence of Mr R when the evidence was inconsistent with the appellant's own evidence.
48. Mr Bates submitted there was nothing in the reasoning which met the high threshold to demonstrate perversity or irrationality (taking into account the Court of Appeal decision in Lowe [2021] and the judge dealt with the argument of whether it was unlikely that he had left the country and considered the evidence "in the round" apportioning weight as the judge saw fit. It was open to the judge to find that the burden of proof upon him had not been discharged where the appellant was and abscond, who had in the past re-entered and exited illegally. There is a land border and the option of a ferry.
49. In summary, the judge had a wide scope to reach the decision that she did and there was no irrationality or perversity in the judge's reasoning which was adequate and it came down to a matter of waiting reliability of the evidence applying Tanveer Ahmed and the judge made sustainable findings of fact which were open to her on the evidence and therefore there is no error of law in her decision.
50. By way of reply Ms Brakaj submitted that at paragraph 40 the judge failed to consider whether the appellant had any desire or inclination to leave the UK and that anyone may have the ability to enter/exit illegally and that this has been shown to occur regularly in the case of others but the question here was whether the appellant in the light of his history and desire to remain in the UK was likely or unlikely to have left the UK. That has not been considered by the FtTJ.
51. As to the casino evidence, it pointed in the appellant's favour and that everything about his history suggested that it was the appellant in the casino during those dates.
52. Ms Brakaj submitted that the grounds were not a disagreement with the decision but challenge the assessment of the evidence and that if the judge had applied Devaseelan correctly his desire to remain in the UK should have been taken into account and the judge's failure to address those issues amounted to a legal error by failing to make findings on core issues. Ms Brakaj invited the tribunal to set aside the decision for error of law.

Decision on error of law:

53. I have carefully considered the grounds advanced on behalf of the appellant and in the context of the submissions made by the parties and the evidence that was before the FtTJ and her decision. I am grateful to both advocates for their submissions.

54. Having done so, I am not satisfied that there is any error of law in the decision of the FtTJ. I shall set out my reasons for reaching that conclusion.
55. Both parties identified that the central issue in this case concerned paragraph 276ADE (1) (iii). That paragraph reads as follows:
- “Paragraph 276 ADE (1): the requirements to be met by an applicant to leave to remain on the grounds of private life in the UK are that the date of the application, the applicant:
- (iii) has lived continuously in the UK for at least 20 years (discounting any period of imprisonment)...
56. For the purposes of paragraph 276ADE the term “lived continuously and “living continuously” means “continuous residence” (see 276A (c)). The term “continuous residence” is defined as meaning “resident in the UK for an unbroken period..”
57. The appellant’s claim was that he had arrived in November 1998 and had lived continuously in the UK since that date and therefore he satisfied paragraph 276 ADE(1) (iii) having lived in the UK for at least 20 years. The position on behalf of the respondent is reflected in the decision of the FtTJ at [13] and that the appellant was likely resident in the UK between November 1998 and January 2016 but it was not accepted that he had demonstrated his continuous residence after January 2016 until he was detained on 30 August 2018.
58. The reason for this is apparent from the chronology that I have set out above and that following the decision of Judge Lewis who dismissed his appeal, the appellant reported in person to the Home Office on 19 October 2015 and every 2 weeks thereafter until 4 January 2016. The computer records revealed that on 16 January 2016 and 15 February 2016 telephone calls were received saying the appellant was too unwell to report. From that date nothing more was heard from the appellant and he was treated as an absconder. It was not until 30 August 2018 that he was encountered, arrested and detained (I refer to the Home Office letter dated 11/12/20).
59. The FtTJ therefore set out the factual dispute between the parties as to the appellant’s residence in the UK as being between January 2016 – 30 August 2018 which was a period of over 2 ½ years) at [24]). Whilst Ms Brakaj had made the submission that the respondent did not record the appellant as an absconder until April 2016 the judge reached the conclusion that that was not the same as accepting residence in the UK and the judge took into account the evidence of the respondent taken from the Home Office records that he failed to report in person after January 2016.
60. As to the position in 2018, whilst the respondent relied upon the date of 30 August 2018 when he was arrested and detained, the judge had evidence in the form of letters from his former solicitors and that the bill summary from them

demonstrated that the appellant had instructed them in June 2018 (see paragraphs [34]-[35]).

61. After considering all of the evidence, both oral and documentary, which the judge analysed at paragraphs [24 – 38] the judge set out her final conclusion at [39]-[40] as follows:

“39. Standing back and considering all of the evidence before me in the round, for the reasons that I set out above, I find the evidence of the Appellant’s residence in the United Kingdom between January 2016 and June 2018 (when he contacted David Gray Solicitors) to be unreliable and unsatisfactory. Whilst I note Ms Brakaj’s point that the Respondent did not record the Appellant as an absconder until April 2016 (see the bail summary in the Appellant’s Bundle) that is not the same as accepting residence in the United Kingdom and I note that the Appellant, according to Home Office records, failed to report in person after January 2016. In any event, I am not satisfied on the balance of probabilities on the evidence before me that the Appellant has shown that he resided in the United Kingdom between April 2016 and June 2018 when he re-established contact with solicitors to pursue contact with his children. For the reasons that I set out above, I do not accept that the casino records go far enough to satisfy me of this to the appropriate standard of proof.

I am acutely aware of Ms Brakaj’s argument that it is highly unlikely that the Appellant would have left the United Kingdom after such a long period only to return but I remind myself that the Appellant was to have no direct contact with his children at this time, that he had used an agent to gain unlawful entry in to the United Kingdom in 1998 and that he has been found by this Tribunal in 2015 to have sought to deceive the immigration authorities as to the genuine nature of his marriage. He thus has shown the means and inclination to flout immigration control.”

62. The judge therefore did not find that the appellant had discharged the burden on him to satisfy paragraph 276 ADE(1) (iii) and that he had been living continuously in the UK for at least 20 years due to the period identified from January 2016 to June 2018.
63. Ms Brajak on behalf of the appellant submitted that when assessing the issue of residence in the UK, the judge firstly failed to take into account the principles set out in the decision of Devaseelan [2002] UKIAT 00702 relating to the earlier findings made by Judge Lewis and secondly, the judge failed to properly consider the submission made that it was highly unlikely that the appellant having resided in the UK since 1998 would have left in January 2016 and returned in June 2018.
64. Dealing with the first issue, I am satisfied the judge took into account the previous findings of Judge Lewis and thus lawfully applied the principles in Devaseelan.

65. The decision of Devaseelan relates to the factual findings made by a previous judge when hearing an appeal by the same appellant and the circumstances that apply. The guidance in that case was referred to with approval by the Court of Appeal in Djebbar v SSHD [2004 EWCA Civ 804. Judge LJ said this about the application of the guidelines at [30]: “perhaps the most important feature of the guidance is that the fundamental obligation of every special adjudicators independently to decide each new application on its own individual merits was preserved.” Having set out the guidance and consider the criticisms made of it by the claimant in that case, Judge LJ said at [40] “the great value of the guidance is that it invests the decision-making process in each individual fresh application with the necessary degree of sensible flexibility and desirable consistency of approach, without imposing any unacceptable restrictions on the 2nd adjudicators ability to make findings which he conscientiously believed to be right. It therefore admirably fulfils its intended purpose.” As set out in SSHD v BK (Afghanistan) [2019] EWCA Civ 1358 the authorities are clear that the guidelines are not based on any application of the principle of res judicata or issue estoppel.
66. It is plain from reading the FtIJ’s decision that she accepted the finding made by Judge Lewis that notwithstanding the lack of evidence to demonstrate his arrival in the UK in November 1998 that this was the date from which the 20 year period would run (see [13] of Judge Frantzis’s decision).
67. Judge Lewis had found at [30] of his decision that whilst there was no supporting documentary evidence of his arrival, the appellant’s sister provided supporting testimony that he had resided in the UK since November 1998. At paragraph [32] Judge Lewis stated, “whilst I have my reservations as to the appellant’s credibility, particularly in regard to his motives in pursuing the 2nd set of contact proceedings, and also in respect of his evidence relating to his more recent marriage – I am prepared to proceed on the assumption that his sister is truthful in stating that he arrived in November 1998 and has remained in the UK ever since. However for the same reasons given by the respondent, I find this does not avail the appellant under the rules in respect of private life. Nor, in my judgement has the appellant offered any documentary evidence or testimony concerning his private life (as distinct from his claims in respect of family life) that would warrant a departure from the rules. He has provided very little evidence of his activities in the UK: essentially has made reference to some recent employment, but otherwise relies upon his relationship with his sister and his 2nd wife.”
68. Thus Judge Lewis was prepared to proceed on the assumption that his sister was truthful in stating that he arrived in November 1998 and that he had remained ever since. The judge however did make the observation [36] concerning the lack of particularisation as to their relationship and there being no supporting evidence and at [37] made reference to the “vague oral testimony” from the witnesses as to where the appellant had been living.

69. Ms Brakaj submits that as Judge Lewis had accepted the evidence of the appellant's sister that he had resided in the UK since November 2018 this was evidence which the FtTJ should have taken into account as demonstrating that he had continued to live in the UK thereafter.
70. Judge Lewis heard the evidence on 10 October 2014 and the decision was promulgated on 9 February 2015. Whilst the judge took as her starting point that the appellant had been resident in the UK from November 1998, beyond the date of the decision of Judge Lewis (either October 2014 or February 2015) his findings did not assist the appellant because it did not deal with the period of time in dispute from January 2016 – June 2018. The assessment of Judge Lewis did not concern that period of time.
71. Nor is it correct as the grant of permission appears to take into account that Judge Lewis made a finding about the previous history of casino attendance. Judge Lewis made no finding in his decision about the 1st marriage. His consideration concerned the 2nd relationship/marriage.
72. Ms Brakaj relied upon the point set out the written grounds that the evidence relied on at the hearing before the present judge was very similar to the evidence before Judge Lewis and that as a family member had given evidence before the present judge, the evidence bore “the same characteristics of that evidence which was previously accepted” and that the failure to consider the basis of the previous decision and nature of the findings as a starting point amounted to a legal error (see paragraph 6 of the written grounds).
73. There is no merit in this submission. The appellant's sister did not give evidence before this FtTJ nor did she provide any written evidence in support. The judge was entitled to take judge Lewis's findings as her starting point that he had resided in the UK from November 2018 until at the latest February 2015 when the decision was promulgated and thereafter from the evidence from the respondent which supported a continuous period until January 2016.
74. The judge however did hear evidence from the appellant's nephew in support of his continuing residence and during the disputed period. The written evidence was sparse. It consisted of an email dated 22/12/2020 of 8 lines and was to the effect that he confirmed that the appellant was living with him and his mother from January 2016 until he was detained in August 2018 at their address and living downstairs in a spare room. There was also some evidence concerning how he obtained the information from the casino. There was no further description of the appellant's residence nor any history provided with that statement or any evidence in support.
75. Contrary to the grounds, the FtTJ did consider that evidence given by the appellant's nephew. At [29] the judge identified inconsistencies with his evidence in connection with the casino evidence (to which I will return) and at paragraphs [36] - [38] the FtTJ addressed the evidence as follows:

“36. The Lycamobile call logs, which it is said show the Appellant calling various numbers between April 2018 and September 2018 carry limited evidential weight on the issue that I have to resolve. The oral evidence is that the phone is not registered to anyone as it is a Pay As You Go phone and others had access to it. The Appellant’s nephew obtained the call logs. It is not adequately explained why, if this is the phone that the Appellant is said to have been using since July 2016 (nephew’s evidence), the call logs only go back as far as April 2018.

37. Finally, I note the oral evidence of Mr (nephew’s evidence) a that the Appellant lived with him and his parents since the time he split from his first wife. In his email evidence sent on 22nd December 2020 Mr (nephew) provides that the Appellant lived with him from January 2016 to the point of his detention in 2018. Whilst that apparent inconsistency can plausibly be explained by the fact that Mr (nephew) was dealing only with the period in contention between the Parties, the fact remains that in light of the issues in this appeal I would have expected a much more considered and detailed witness statement to have been provided by Mr (nephew) who says he can speak to the entire issue in dispute. I find his written evidence to be lacking in detail.

38. In terms of Mr (nephew) oral evidence, there were inconsistencies that troubled me. The Appellant’s case is that he now lives with his wife (paragraph 7 of his witness statement). In interview, the Appellant stated that prior to his detention in August 2018 he would travel between Newcastle (seeing his current wife) and Southampton (staying with his sister). At question 199 the Appellant says he would stay for one month at a time in Southampton, travelling back and forth to Newcastle where he would also stay. His wife would come to Southampton and bring the children (question 199). That is not consistent with Mr (nephew) oral evidence that the Appellant was always present at the property and no one visited him there. I did not find Mr (nephew) explanation of this inconsistency to be satisfactory and I was left with the impression that he was seeking to adapt his evidence to the questions being asked of him.

76. Ms Brakaj did not seek to challenge those findings and acknowledged that there were inconsistencies in his evidence. In the light of the inconsistent evidence given by the witness the judge was entitled to find that the inconsistencies between that of the witness and the appellant undermined his evidence. It was open to the judge to give little evidential weight to that evidence in her overall analysis.
77. I also observed that the judge noted that the appellant’s wife was present at the tribunal but was not called to give evidence despite the claim that she had been in a relationship with him since 2013 and he had been seeing her adult children regularly (see paragraph[25](iv)).
78. The second issue Ms Brakaj relied upon is that the judge did not properly consider that it was highly unlikely that the appellant having resided in the UK since November 1998 would have left in January 2016 and returned in June 2018.

79. In her oral submissions she argued that “the starting point to this conclusion was not challenged and there was no dispute that it would be highly unlikely that he left the UK”. She argued that there was no evidence of the appellant being in any 3rd country or any evidence of him re-entering illegally or legally and therefore as a starting point the judge should have started her assessment from the point that it was highly unlikely that he had left the UK.
80. I do not accept that the judge was required to have started her assessment from the viewpoint that it was highly unlikely that he had left the UK. Whilst Ms Brakaj appeared to argue that there was no dispute that it was highly unlikely that he left the UK that is not reflected in the decision. At [40] the judge expressly addressed this issue and therefore it was in dispute. The judge took into account the submission made but gave reasons why she did not accept such an argument. Firstly the judge found that the appellant was to have no direct contact with the children at that time (as the court order had been to refuse direct contact) and therefore the inference from this was that it did not provide any motivation or incentive for him to remain. Furthermore, the judge took into account that the appellant had used an agent to gain unlawful entry into the UK in 1998 and that “and that he is been found by this tribunal in 2015 have sought to deceive the immigration authorities as to the genuine nature of his marriage. He thus has shown the means and inclination to flout immigration control.” The reference made at paragraph [40] reflected the earlier findings made by Judge Lewis at [43] and what he described as the appellant’s deliberate conduct in securing an immigration advantage.
81. It is also the case that those findings should not be read in isolation from the other factual findings made by the judge on the evidence advanced by the appellant to demonstrate his continuous residence for the period in dispute.
82. The judge had the opportunity to hear the evidence of the appellant and for it to be the subject of cross-examination. The judge was entitled to form a view of the appellant’s credibility from the previous evidence and also the evidence that was before her.
83. At [25] the FtTJ stated;
- “25. The following features operate against the Appellant’s credibility which I consider with the evidence before me in the round:
- i He has maintained a protection claim before the Tribunal that I have found to lack credibility;
 - ii The Appellant was found to be an untruthful witness by Judge Lewis (see paragraph 43 of the Determination at Annex D of the Respondent’s Bundle);
 - iii The Appellant was found by Judge Lewis to have deliberately secured and entered into a non-genuine marriage to assist him in obtaining an immigration advantage;

- iv Despite my being informed that the Appellant's current wife was present at the Tribunal, she was not called to give oral evidence before me even though on the Appellant's case, he has been in a relationship with her since 2013 (see paragraph 7 of his witness statement) and that he sees her adult children regularly (substantive asylum interview record question 211). No such individuals were called to give evidence;
- v The Appellant stated in cross examination that he had attended hospital in Southampton owing to kidney problems. This was in response to a question in cross examination about whether he had any other evidence to show his residence in the United Kingdom between January 2016 and August 2018. The Appellant stated he had lost the relevant letter. If accurate, then the Appellant has failed to obtain medical records that could have assisted him. His failure to do so undermines his case."

84. At paragraphs [26]-[35] the FtTJ set out her reasoning why she did not place weight on the casino evidence and at [36] gave her reasons as to why she gave the telephone call evidence limited evidential weight and at [37]-[38], the judge set out her reasoning for reaching the conclusion that the evidence of the supporting witness was inconsistent, vague and lacking in credibility.
85. In my judgement the FtTJ considered all the evidence "in the round" when addressing the issue of whether the appellant had established on the balance of probabilities that he had been living continuously from November 1998 for a period of 20 years in the UK and had given consideration to the submission that he was highly unlikely to have left but was entitled to consider this evidence not as a starting point but within the context of the evidence when viewed in its totality.
86. I return to the evidence again as it is submitted on behalf of the appellant that the judge failed to consider the documentary evidence from the casino.
87. I have carefully considered that submission in the light of the decision and the evidence before the judge but I am satisfied that the judge gave adequate and sustainable reasons for reaching the view that she took on that evidence as to its lack of reliability and provenance applying the decision in Tanveer Ahmed.
88. The FtTJ addressed this evidence at paragraphs [26 - 33]. The evidence from the casino is summarised at [26] which was in the form of a letter confirming that the appellant had been registered as a customer since 6 March 2000. The appellant's bundle contained evidence on sheets of paper recording entrance to the casino on various dates from 7 March 2000 until 24/9/2017, 14/5/2018, 13/10/2018 and 3/2/20.
89. The judge accepted that the appellant had gambled and had incurred debt from this during his marriage from 2000/2009 (at [30]) and took that into account in her assessment. However at paragraphs 26 - 33, and also at paragraph 37, the

judge found the evidence to be lacking in reliability and provenance. The judge found as follows:

- “27. Ms Cornford submitted that the casino records merely state the Appellant’s name but there is no evidence from the casino confirming which individual was using that identity on each occasion. There is no evidence regarding what was used to register the account with the casino. There is nothing to confirm what identity documents the casino hold, no photograph for example. There is no mention of the Appellant’s Bangladeshi passport that he says he used to open the account. I find that these are all factually accurate points and there is force in them. There is a lack of evidence from the casino directly as to how they open accounts, their identity checks, how they keep their records and whether others can use an individual’s membership and if not how that is prevented.
28. There is an inconsistency in the Appellant’s oral evidence in respect of what documents he used to register with the casino. In oral evidence the Appellant stated it was his Bangladeshi passport. When he lost that passport, he said he simply told the casino he didn’t have it any longer. In re-examination, the Appellant told Ms Brakaj that the person who initially brought him to the United Kingdom took his passport. He then said that he did not obtain a replacement. In response to questions about how then he used a Bangladeshi passport to open an account with the casino, the Appellant changed his evidence and responded that he did in fact apply for a Bangladeshi passport in 1999. This inconsistency undermines the Appellant’s claim to have used his Bangladeshi passport to open an account with the casino and his evidence on this point generally.
29. Ms Cornford also submitted that the evidence of the Appellant’s nephew was contradictory and vague in respect of how he obtained these records. I agree that in light of data protection restrictions it remains inadequately explained by the Appellant and his nephew how the records at pages 26 to 33 of the Bundle were provided to Mr Rahman. On the Appellant’s case he did not recall providing a letter of authority to his nephew: Mr Rahman’s evidence is that he showed a letter to the casino from the Home Office that contained the Appellant’s name and address and they then issued the records to him without more. That would suggest that the casino is not as diligent as it should be in terms of providing data about individual members and this calls in to question how diligent they are about securing against a membership number being used by more than one individual.
30. I consider this evidence in the round with the fact that it is accepted by the Respondent that the Appellant gambled and incurred debt during the course of his first marriage. In his substantive interview, the Appellant stated that he used to gamble with a company in Southampton from 2000 where he had membership. That is consistent with and corroborates the Appellant’s account to have gambled at an establishment in Southampton during the course of his first marriage between 2000 and 2009 and I consider this in the round.

31. However, at questions 131-133 of his substantive asylum interview the Appellant's answers indicate that from 2012 he had no money and so was unable to gamble although he "would pop in at times". The frequency of the recorded visits to the casino from 2012 (and in particular after 2015 when the Appellant had no leave to remain) is not consistent with use by an individual who is unable to take up lawful employment and is therefore reliant upon money from relatives and working illegally. It is also not consistent with the Appellant's answers at interview (questions 131-133 and 172). This calls in to question who was using the membership taken out in the Appellant's name and whether it was the Appellant at all times.
 32. I have considered the Appellant's oral evidence that he would initially gain entry to the casino by giving his date of birth and they would "see my photo on the CCTV". The Appellant also gave evidence, however, that after a while he could gain entry by simply asking reception as they recognised him which then begs the question how his entry was logged. I do not find the Appellant's evidence on this point to be clear or consistent. The Appellant does not say that his photo was taken as part of the initial application process to join the casino. Indeed, as I have set out above the evidence about the documents used by the Appellant to open the account at the casino is unsatisfactory.
 33. Considering the evidence from the casino in the round I do not find that it can, alone, substantiate the Appellant's claim to residence in the United Kingdom between January 2016 and August 2018. That is because there are simply too many inconsistencies and questions raised by the records that have not been satisfactorily answered, as I have set out above. I remind myself that the burden in this appeal lies on the Appellant."
90. Whilst Ms Brakaj sought to undermine the finding at [31] on the basis that his attendance at the casino was not inconsistent with obtaining the money from illegal employment or from relatives, that is simply a disagreement with the findings made and does not identify why that finding was not open to the judge to make on the evidence that was before her. The fact that there were no attendances during the period from August until September 2018 when he was in detention did not undermine the reasoning provided by the FtTJ who considered all of the evidence "in the round" for reaching her conclusions.
 91. Furthermore I do not accept the submission made that the findings made by the judge required the appellant to substantiate his case to a higher standard or burden. The judge was correct to proceed on the basis of the burden was on the appellant to demonstrate on the balance of probabilities that he had been living continuously in the UK for at least 20 years. In assessing the evidence the judge was entitled to take into account its unreliability, the appellant's lack of consistency and the witnesses inconsistent evidence and also that there was evidence to be available which he chose not provide (see paragraph [25] (iv) (v))

92. The judge in my view was entitled to consider all of the evidence “in the round” and before reaching her overall conclusions which I am satisfied that she did. Consequently there is no error in her assessment of the evidence that was before the tribunal. I agree with this submission made by Mr Bates that none of those findings can possibly be considered to be either perverse or irrational. The test of irrationality is an onerous one to meet. It requires the Tribunal to be satisfied that *no* reasonable Tribunal properly directing itself could have reached the finding or conclusion challenged. That test is not met on the assessment made by the FtTJ in this appeal. I also remind myself that the according of weight to evidence is a matter for the judge. It is not an arguable error of law for a judge to give too little or too much weight to a relevant factor, unless the exercise is irrational. Nor is it an error of law for a judge to fail to deal with every factual issue of argument. Disagreement with a judge's factual conclusions, the appraisal of the evidence or assessment of credibility does not give rise to an error of law.
93. Mr Bates cited the decision of Lowe v SSHD [2021] EWCA Civ 62, where McCombe LJ (with whom Asplin LJ agreed) re-iterated the importance of appellate courts and tribunals exercising caution before interfering with “evaluative judgments” by first instance judges (see [29] citing Fage UK Ltd v Chobani UK Ltd [2014] EWCA Civ 5 at [114]-[115] per Lewison LJ).

"29. At [114] - [115], Lewison LJ explained the caution to be exercised by appellate courts in interfering with evaluative decisions of first instance judges. Para. [114] is particularly well known, but para. [115] is also of relevance to the present case. The Lord Justice said this:

"114. Appellate courts have been repeatedly warned, by recent cases at the highest level, not to interfere with findings of fact by trial judges, unless compelled to do so. This applies not only to findings of primary fact, but also to the evaluation of those facts and to inferences to be drawn from them. The best known of these cases are: *Biogen Inc v Medeva Plc* [1997] RPC 1; *Piglowska v Piglowski* [1999] 1 WLR 1360; *Datec Electronics Holdings Ltd v United Parcels Service Ltd* [2007] UKHL 23; [2007] 1 WLR 1325; *Re B (A Child) (Care Proceedings)* [2013] UKSC 33; [2013] 1 WLR 1911 and most recently and comprehensively *McGraddie v McGraddie* [2013] UKSC 58; [2013] 1 WLR 2477. These are all decisions either of the House of Lords or of the Supreme Court. The reasons for this approach are many. They include

- i. The expertise of a trial judge is in determining what facts are relevant to the legal issues to be decided, and what those facts are if they are disputed.
- ii. The trial is not a dress rehearsal. It is the first and last night of the show.
- iii. Duplication of the trial judge's role on appeal is a disproportionate use of the limited resources of an appellate court, and will seldom lead to a different outcome in an individual case.

- iv. In making his decisions the trial judge will have regard to the whole of the sea of evidence presented to him, whereas an appellate court will only be island hopping.
- v. The atmosphere of the courtroom cannot, in any event, be recreated by reference to documents (including transcripts of evidence).
- vi. Thus even if it were possible to duplicate the role of the trial judge, it cannot in practice be done.

115. It is also important to have in mind the role of a judgment given after trial. The primary function of a first instance judge is to find facts and identify the crucial legal points and to advance reasons for deciding them in a particular way. He should give his reasons in sufficient detail to show the parties and, if need be, the Court of Appeal the principles on which he has acted and the reasons that have led him to his decision. They need not be elaborate. There is no duty on a judge, in giving his reasons, to deal with every argument presented by counsel in support of his case. His function is to reach conclusions and give reasons to support his view, not to spell out every matter as if summing up to a jury. Nor need he deal at any length with matters that are not disputed. It is sufficient if what he says shows the basis on which he has acted. These are not controversial observations: see *Customs and Excise Commissioners v A* [\[2002\] EWCA Civ 1039](#); [\[2003\] 2 WLR 210](#); *Bekoe v Broomes* [\[2005\] UKPC 39](#); *Argos Ltd v Office of Fair Trading* [\[2006\] EWCA Civ 1318](#); [\[2006\] UKCLR 1135](#)"

30. In this case, the FTT had determined the issues that were before it, being those which were regarded as being central to the question of whether the Appellant had demonstrated the relevant "very significant obstacles". It was not necessary for the FTT to deal with a case that was not being made by the Respondent. The appeal to the FTT was "the first and last night of the show", not a "dress rehearsal".

31. Equally, it is to be recalled that judgments at first instance are necessarily an incomplete impression made upon the judge by the primary evidence. This FTT judge reached the conclusion that he did on the issues raised and he expressed himself succinctly on them. This is what Lord Hoffmann said on the point in the well-known passage of his speech in the House of Lords in *Biogen Inc. v Medeva plc* [\[1997\] RPC 1](#) at 45:

"The need for appellate caution in reversing the judge's evaluation of the facts is based upon much more solid grounds than professional courtesy. It is because specific findings of fact, even by the most meticulous judge, are inherently an incomplete statement of the impression which was made upon him by the primary evidence. His expressed findings are always surrounded by a penumbra of imprecision as to emphasis, relative weight, minor qualification and nuance (*as Renan said, la vérité est dans une nuance*), of which time and language do not permit exact expression, but which may play an important part in the judge's overall evaluation...".

94. I remind myself that the suggestion on appeal is that the FtTJ has misdirected herself in law. But it is not an error of law to make a finding of fact which the appellate tribunal might not make, or to draw an inference or reach a conclusion with which the UT disagrees. The temptation to dress up or re-package disagreement as a finding that there has been an error of law must be resisted. As Baroness Hale put it in *SSHD v AH (Sudan)* [2007] UKHL 49 [30]:-
- "Appellate courts should not rush to find such misdirections simply because they might have reached a different conclusion on the facts or expressed themselves differently."
95. And as Floyd LJ said in *UT (Sri Lanka) v SSHD* [2019] EWCA Civ 1095 [19]:
- "... although 'error of law' is widely defined, it is not the case that the UT is entitled to remake the decision of the FTT simply because it does not agree with it, or because it thinks it can produce a better one. Thus, the reasons given for considering there to be an error of law really matter."
96. When applied to the circumstances of this appeal I agree with the submissions made on behalf of the respondent that the grounds and submissions on behalf of the appellant are no more than a disagreement with the decision of the FtTJ and do not demonstrate an error either in fact or in law. The FtTJ gave adequate and sustainable reasons which were evidence-based for rejecting the evidence relied upon by the appellant and for reaching her overall conclusions by considering the evidence "in the round".
97. For those reasons, I am not satisfied that it has been demonstrated that the decision of the FtTJ involved the making of an error on a point of law and that the appeal should be dismissed. The decision of the First-tier shall stand.

Notice of Decision:

The decision of the First-tier Tribunal did not involve the making of an error on a point of law and therefore the decision of the FtT shall stand. The appeal is dismissed.

Signed *Upper Tribunal Judge Reeds*

Dated 9 July 2021

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.