



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/11934/2019 (R)

THE IMMIGRATION ACTS

Remote Hearing by Skype for Business
On 13th October 2020

Decision & Reasons Promulgated
On 5th March 2021

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

E T G
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Tapfumaneyi, PT Law & Associates
For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS (R)

An anonymity direction was made by the First-tier Tribunal ("FtT"), and as this decision concerns the interests of minor children, it is appropriate that a direction is made. Unless and until a Tribunal or Court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his

family. This direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

1. This is an appeal against the decision of First-tier Tribunal Judge Farmer promulgated on 18th March 2020. The underlying decision that was the subject of the appeal before the First-tier Tribunal was the decision of the respondent dated 28th September 2019 to refuse the appellant's human rights claim.
2. The hearing before me on 13th October 2020 took the form of a remote hearing using Skype for Business. Neither party objected. At the outset, I was informed by Mr Tapfumaneyi that the appellant was feeling unwell and has asked that his attendance be excused. I sat at the Birmingham Civil Justice Centre. I was addressed by the representatives in exactly the same way as I would have been if the parties had attended the hearing together. I was satisfied: that no party has been prejudiced; and that, insofar as there has been any restriction on a right or interest, it is justified as necessary and proportionate. I was satisfied that it was in the interests of justice and in accordance with the overriding objective to proceed with a remote hearing because of the present need to take precautions against the spread of Covid-19, and to avoid delay. I was satisfied that a remote hearing would ensure the matter is dealt with fairly and justly in a way that is proportionate to the importance of the case, the complexity of the issues that arise, and the anticipated costs and resources of the parties. At the end of the hearing I was satisfied that both parties had been able to participate fully in the proceedings.
3. The appellant is a national of Zimbabwe. The appellant's immigration history is referred to in the respondent's decision and as set out in paragraph [3] of the decision of Judge Farmer, is uncontroversial. For present purposes it is sufficient to note that on 29th March 2011, the appellant was granted Discretionary Leave to Remain in the UK valid until 15th March 2014 following a successful appeal on Article 8 grounds, after a claim for international protection and leave to remain on human rights grounds was refused by the respondent in January 2011. At the hearing of the appeal, the appellant relied upon his relationship with a British

Citizen who I shall refer to in this decision as [DO] and the two children of that relationship who I refer to as [M] and [T] respectively. [M] was born on 2nd October 2018 and [T] was born on 20th November 2009.

4. Having referred, at paragraph [7] of her decision to the cautions received by the appellant in 2005, 2006 and 2007, at paragraph [8] of her decision, Judge Farmer referred to the appellant's criminal convictions. She said:

"His PNC discloses 17 convictions for 29 offences between 23 January 2008 and 23 May 2019. These are summarised as 2 offences against the person (2009); 2 offences against property (2009); 8 theft and kindred offences (2013 - 2019); 4 public order offences (2008 - 2019) and 1 miscellaneous offence (2015)."

5. At paragraph [9], Judge Farmer noted the appellant had received a combination of community sentences, fines and compensation orders until 2015 when he was convicted (following a guilty plea) at Woolwich Crown Court of 1 count of theft and 1 count of robbery. He was sentenced to 2 months and 18 months respectively, to run concurrently. At paragraph [10], Judge Farmer referred to the appellant's more recent convictions. She said:

"...On 28/03/2019 he was convicted of theft and given a community sentence which was subsequently varied to 10 weeks imprisonment on 23/05/2019. On 10/04/2019 he was convicted of possession of a Class A drug (cocaine) and given one week imprisonment to run consecutively with one week's imprisonment for an offence on the same date of possession of a Class B drug (cannabis). At the same time he was sentenced for theft (from a motor vehicle) and given 20 weeks imprisonment."

6. Judge Farmer noted, at [14], that on 2nd August 2015 the appellant was served with a decision to deport dated 29th July 2015. Submissions were made on the appellant's behalf by his representatives on 27th of August 2015. On 22nd December 2015 the respondent wrote to the appellant's representatives requesting further documents. No further documents were provided by the appellant and on 20th September 2019 the respondent reached her decision to refuse the appellant's human rights claim. It was that decision that was the subject of the appeal before First-tier Tribunal Judge Farmer.

7. At the hearing of the appeal, there was an application by the appellant's representative for an adjournment to obtain an up-to-date medical report to deal with the effects of a head injury the appellant suffered in 2007. The application was refused for the reasons set out in paragraph [16] of the decision.
8. At paragraph [21] of the decision, Judge Farmer records that the appellant attended the hearing and gave oral evidence. She states that there is a full note of his evidence in the record of proceedings and continues "... I will summarise it as follows:". Regrettably, what follows as a summary of the appellant's claim at paragraphs [22] to [25] of the decision bears no resemblance whatsoever to the appellant's claim. The facts and circumstances recorded in those paragraphs do not relate to the appellant at all and are wholly divorced from the facts and circumstances of the appellant's case. At paragraph [26], Judge Farmer states the appellant's wife also gave oral evidence and confirmed the account given by the appellant. That paragraph also has nothing to do with this appeal. The appellant does not have a partner and the Tribunal did not hear from any other witnesses. I have considered in the course of this decision whether the erroneous summary that relates to another individual, was material to the outcome of the appeal.
9. Judge Farmer's findings and conclusions are set out at paragraphs [27] to [64] of her decision. At paragraph [28] of her decision Judge Farmer correctly noted that the appellant has made a human rights claim based on his relationship with his British children. At paragraph [30] she noted that the issue for her, is the weight to be placed on the competing interests of the respondent to deport the appellant in the public interest on the basis that his presence in the UK is not conducive to the public good, and the appellant's claim to have a family life with his children. Judge Farmer set out the relevant provisions of the immigration rules at paragraphs [31] to [35] of her decision.
10. Judge Farmer referred to the evidence that was before Immigration Judge Lewis previously when his appeal was allowed on Article 8 grounds for reasons set out in a decision promulgated on 17th March 2011. She noted, at paragraph [40] of her

decision, that [DO] attended the hearing in 2011 and gave evidence in support of the appeal. She noted the appellant's sister had also given evidence in support of the appeal in 2011. Judge Farmer referred to the lack of evidence regarding the appellant's ongoing relationship with his children, and at paragraph [43] she said:

“Although the appellant claims to have ongoing regular contact with his children I find that he has not established to the required standard (on balance of probabilities) that he has any ongoing direct contact with them.”

11. At paragraph [48] she said:

“The Determination of IJ Lewis in 2011 found an ongoing relationship with his British children. Based on the current and new evidence I am entitled to come to a different conclusion, and I find there is no ongoing relationship.”

12. Nevertheless, Judge Farmer found, at [52], that it would be unduly harsh for the children to live in Zimbabwe. That had been conceded by the respondent in the respondent's decision. She found, at [53], that it would not be unduly harsh for the children to remain in the UK without their father. She found the appellant is not currently having direct contact with them and their primary carer is their mother, with whom they continue to live. She acknowledged that the removal of the appellant will have an impact on the children, and it will mean that they are unable to reinstate direct contact, but she found they will be able to maintain indirect contact and would be able to visit their father in Zimbabwe in the future. She concluded, at [55], it would not be unduly harsh for the children to remain in the UK without the appellant.

13. Judge Farmer also concluded that paragraph 399A of the immigration rules does not apply because the appellant has not been resident in the UK for most of his life, is not socially and culturally integrated in the UK and there would not be very significant obstacles to his integration into Zimbabwe. Having concluded that the exceptions to deportation are not satisfied, she found, at [62], that there is a significant public interest in deporting the appellant due to the fact that he has 17 convictions for 29 offences. She found the appellant has failed to provide evidence

to establish that the public interest in deportation is outweighed by other factors. At paragraph [64] she referred to the appellant's claim that he would suffer undue hardship because of his medical condition. She referred to the medical evidence before the Tribunal and noted the appellant has been prescribed an antidepressant and one other medication but is receiving no other therapy. She noted that while tests show an impairment of the appellant's cognitive function, the health professionals observed no apparent impairment of his functional ability. Judge Farmer concluded that if the appellant requires treatment, there is a healthcare system available to him in Zimbabwe. Although that would not provide the level of care that the NHS provides, Judge Farmer was not satisfied that the appellant needs, or has, a high level of current need. Having considered the evidence before the tribunal she concluded that the public interest in deporting the appellant outweighs his right to a family and private life.

The appeal before me

14. The appellant claims Judge Farmer erred:
 - a. in failing to grant the application for an adjournment and relied upon outdated medical evidence, and made adverse credibility findings in circumstances where there was evidence of impairment of the appellant's cognitive function capable of explaining his inability to recollect events; and/or
 - b. in failing to consider the appellant's claim that he would be at risk upon return to Zimbabwe because of his imputed political opinion; and/or
 - c. in failing to give sufficient and adequate reasons for the finding that the appellant does not have a genuine and subsisting parental relationship with his children when considering whether paragraph 399 of the immigration rules applies.

15. Permission to appeal was granted by First-tier Tribunal Judge Robertson on 23rd July 2020.
16. In his submissions Mr Tapfumaneyi relied on the grounds of appeal and submitted that Judge Farmer erroneously refused the application for an adjournment in circumstances where the appellant's health impacted on his ability to provide evidence in support of the appeal. The application for an adjournment was made to enable the appellant to obtain further medical evidence in support of his claim and to allow for further time to obtain evidence to support the Article 8 claim made. Mr Tapfumaneyi submits Judge Farmer erroneously recorded, at paragraph [16], that the sole basis for the application for an adjournment was to obtain an up-to-date medical report and the failure to record the reasons for the application is of concern. He submits the appellant had been serving a sentence of imprisonment and then was held in immigration detention until he was released on 21st January 2020. He had suffered mental health relapses and his family had been unable to support him. However at the end of February 2020/beginning of March 2020, the appellant's sister had agreed to fund a medical report, and that is why an application was made for an adjournment.
17. Mr Tapfumaneyi submits the appellant did not have sufficient time following his release from detention to obtain the evidence necessary to support the Article 8 claim. He said the appellant could not secure a statement from his siblings, because they would not agree to support the application. His estranged partner, [DO], was not willing to cooperate with the appellant and was not prepared to provide a statement in support of the appeal. Mr Tapfumaneyi accepts the two children [M] and [T] remain in the care of their mother who has sole responsibility for them. The appellant had been unable to obtain evidence from the children's schools to confirm that he had remained in contact with the schools prior to his incarceration, without the consent of [DO]. Mr Tapfumaneyi simply submits the appellant did not have sufficient time to provide evidence regarding his ongoing involvement in the lives of the children. He submits Judge Farmer unfairly failed to give the appellant an

opportunity to provide further evidence in support of the Article 8 claim when there was evidence of a previous relationship between the appellant and his children.

18. Mr Tapfumaneyi submits Judge Farmer has failed to have any regard to the claim for international protection made by the appellant. He referred to the appellant's statement dated 13th March 2020 that is to be found at pages [13] to [16] of the appellant's bundle. In his statement the appellant claims he does not support ZANU-PF, and if he has to return to Zimbabwe, he will denounce the government. He fears that he will be targeted and refers to background material that he claims establishes that even low-level members of political parties such as the MDC and pressure groups in Zimbabwe are at risk. Mr Tapfumaneyi accepts the appellant is not a member of the MDC and has no political profile. He candidly accepts that a claim for international protection could not succeed under the Country Guidance set out in CM (EM country guidance; disclosure) Zimbabwe CG [2013] UKUT 00059(IAC), but he submits, there was background material before the First-tier Tribunal that was sufficient to establish the appellant would be at risk upon return.
19. In reply, Mrs Aboni submits Judge Farmer properly directed herself and gave adequate reasons for the findings and conclusions she reached. She accepts that at paragraphs [22] to [26] of the decision, Judge Farmer summarises a claim that appears to relate to a different individual altogether. She submits that demonstrates a lack of care but is not material to the outcome of the appeal. She submits Judge Farmer engages with the evidence and reaches findings and conclusions at paragraphs [27] to [64], that were open to her on the evidence before the Tribunal.
20. Mrs Aboni submits the application for an adjournment was made at the hearing and dealt with as a preliminary matter. The application was, as Judge Farmer recorded, made on the sole basis that the appellant wished to obtain an up-to-date medical report to deal with the effect of the appellant's head injury. There was no suggestion that an adjournment was required to get evidence of the relationship

between the appellant and his children and to support the Article 8 claim. In any event, she submits, there is no proper no explanation for the failure to file and serve evidence in support of the Article 8 claim. Mrs Aboni submits it was open to the Judge to refuse the application for an adjournment for the reasons given.

21. Insofar as the appellant relies upon a claim for international protection, Mrs Aboni submits that the decision that was the subject of the appeal was a decision to refuse a human rights claim. The appellant had not made a claim for international protection. It had not been claimed in the representations made on his behalf that the appellant would be at risk upon return to Zimbabwe because of is imputed political opinion, or that his removal from the UK would be in breach of the UK's obligations under the Refugee Convention.

Discussion

22. Before addressing the appellant's appeal it is useful to refer to the relevant statutory framework. Section 32 of the UK Borders Act 2007 defines a foreign criminal, as a person not a British citizen who is convicted in the UK of an offence and, *inter alia*, sentenced to a period of imprisonment of at least 12 months. Section 32(4) of the 2007 Act sets out the clear proposition that deportation of a foreign criminal is conducive to the public good. That is a statement of public policy enacted by the legislature, which the courts and tribunals are obliged to respect. Section 32(5) of the 2007 Act requires the Secretary of State to make a deportation order in respect of every foreign criminal, subject to the exceptions set out in section 33. Insofar as is relevant that is:

“(2) Exception 1 is where removal of the foreign criminal in pursuance of the deportation order would breach–

- (a) a person's Convention rights, or
- (b) the United Kingdom's obligations under the Refugee Convention.

...

(7) The application of an exception –

- (a) does not prevent the making of a deportation order.

(b) results in it being assumed neither that deportation of the person concerned is conducive to the public good nor that it is not conducive to the public good.
but section 32(4) applies despite the application of Exception 1 or 4."

23. Part 5A of the Nationality, Immigration and Asylum Act 2002 NIAA 2002 informs the decision making in relation to the application of the section 33 exceptions. Section 117A in Part 5A provides that, when a court or tribunal is required to determine whether a decision made under the Immigration Acts breaches a person's right to respect for private and family life under Article 8, and, as a result, would be unlawful under section 6 of the HRA 1998, the court, in considering the public interest question, must (in particular) have regard to the considerations listed in section 117B and, additionally, in cases concerning the deportation of foreign criminals, to the considerations listed in section 117C. Applying s117C(3) of the 2002 Act, the public interest required the appellant's deportation unless Exceptions 1 or 2 set out in s.117C(4) and (5) apply.

The decision to refuse the application for an adjournment

24. I accept that a decision which is procedurally unfair is erroneous in law and must be set aside: Serafin v Malkiewicz [2020] UKSC 23. In Nwaigwe (adjournment: fairness) [2014] UKUT 000418 (IAC), the Upper Tribunal held that if a Tribunal refuses to accede to an adjournment request, such decision could, in principle, be erroneous in law in several respects. In practice, in most cases the question will be whether the refusal deprived the affected party of their right to a fair hearing. Where an adjournment refusal is challenged on fairness grounds, it is important to recognise that the question for the Upper Tribunal is not whether the FtT acted reasonably. Rather, the test to be applied is that of fairness. There is no requirement to show bad faith on the part of the Judge below, and whether a particular course was fair or not, is necessarily a question of law that is entirely fact sensitive.
25. I reject the claim that First-tier Tribunal Judge Farmer unfairly refused the application for an adjournment. As Judge Farmer noted at paragraph [11] of her decision, the appellant had instructed his current solicitors on 29th November 2019.

He was released from immigration detention, on bail, on 21st January 2020. The appellant and his representatives were served with a 'Notice of Hearings' on 24th January 2020. The Notice informed the appellant and his representatives that a Case Management Review Hearing would take place on 12th February 2020 and the appeal had been listed for a full hearing on 12th March 2020. Mr Tapfumaneyi appeared on behalf of the appellant at the Case Management Review Hearing on 12th February 2020 before First-tier Tribunal Judge Kinnell. The Directions made at the Case Management Review Hearing were sent to the parties on 13th February 2020. The Directions confirmed that the substantive hearing of the appeal was to remain listed on 12th March 2020. The appellant was directed to file and serve a full and paginated bundle of evidence relied upon no later than five days prior to the substantive hearing.

26. For reasons that are neither explained nor apparent, there was no application for an adjournment prior to the hearing of the appeal on 12th March 2020. It was of course open to the appellant to raise any difficulties that were being encountered in securing evidence, including medical evidence, at the Case Management Review hearing and to canvass with the Tribunal the possibility of relisting the appeal on another date. The appellant did not do so. It was equally open to the appellant to make an application for an adjournment as soon as it became apparent that further medical evidence would be of assistance, or that the appellant felt he had insufficient time to secure evidence in support of his Article 8 claim. Again, the appellant did not do so. The issues in the appeal are plainly apparent from the matters set out in the respondent's decision.
27. I have considered the record of proceedings in which First-tier Judge Farmer refers to the application for an adjournment. It is clear from the record of proceedings that the application was, as recorded in paragraph [16] of her decision, made on the sole basis that the appellant wished to obtain an up-to-date medical report to deal with the effect of the head injury the appellant had suffered in 2007. At paragraph [16] of her decision, Judge Farmer said:

“... I refused the adjournment. This is a very old injury, now almost 13 years ago. There is a wealth of medical evidence before the Tribunal including contemporaneous evidence and reports, GP print outs and records from 2005 to 2014 and additional medical letters. I also have the findings of Immigration Judge Lewis (“IJ Lewis”) who dealt with the injury in his determination promulgated on 17 March 2011 and the sentencing remarks in 2015 which also referred to the injury and the OYAS report which also makes reference to it. I find that there is therefore no need to adjourn the appeal when there is already so much material available and I found that I could have a fair hearing without further evidence being required. I therefore refused to adjourn as I could have a fair hearing and it was neither proportionate or in the interests of justice for there to be further delay.”

28. I reject the submission, made by Mr Tapfumaneyi that fairness required an adjournment. The appellant had attended the hearing of the appeal and, as Judge Farmer noted, there was a wealth of evidence before the Tribunal regarding the injury suffered by the appellant in 2007 and its impact upon the appellant. In my judgment, Judge Farmer gives entirely proper reasons for refusing the application. Nothing more was required, and I reject the submission that the judge was required, on the facts of this case to adjourn to enable further medical evidence to be secured. It is in my judgement plain that Judge Farmer had the relevant facts and the relevant considerations in mind. As the chronology that I have set out above demonstrates, the appellant had had ample time to obtain further medical evidence in support of his appeal but had failed to do so in a timely fashion. Fairness did not demand that the hearing be adjourned in these circumstances, and the appellant, who had been legally represented since the end of November 2019, should have appreciated the issues that would arise in the appeal.

Failure to consider the appellant's claim that he would be at risk upon return to Zimbabwe because of his imputed political opinion

29. The appellant was served with a notice of decision to make a deportation order dated 29th of July 2015. He was invited to set out any reasons he has for wishing to remain in the UK. Representations were made on behalf of the appellant by William Lamb & Co under cover of a letter dated 27th August 2015. A copy of that letter is to be found at ‘Annex K’ of the respondent’s bundle. The appellant’s representatives did not suggest the appellant’s removal in pursuance of a

deportation order would be in breach of the Refugee Convention. The appellant's representatives relied entirely upon his relationship with members of his family in the UK, and in particular, his relationship with his two children who are British citizens. I accept, as Ms Aboni submits, that the decision that was the subject of the appeal was a decision to refuse a human rights claim made in response to the representations made on behalf of the appellant.

30. In the appellant's grounds of appeal that were before the First-tier Tribunal, the appellant claimed, for the first time, that his deportation would be in breach of the United Kingdom's obligations under the Refugee Convention. In Mahmud (S85 NIAA 2002 - "new matters") [2017] UKUT 488 (IAC) it was held that (i) Whether something is or is not a 'new matter' goes to the jurisdiction of the First-tier Tribunal in the appeal and the First-tier Tribunal must therefore determine for itself the issue; (ii) A 'new matter' is a matter which constitutes a ground of appeal of a kind listed in section 84, as required by section 85(6)(a) of the 2002 Act. Constituting a ground of appeal means that it must contain a matter which could raise or establish a listed ground of appeal. A matter is the factual substance of a claim. A ground of appeal is the legal basis on which the facts in any given matter could form the basis of a challenge to the decision under appeal; (iii) In practice, a new matter is a factual matrix which has not previously been considered by the Secretary of State in the context of the decision in section 82(1) or a statement made by the appellant under section 120. This requires the matter to be factually distinct from that previously raised by an appellant, as opposed to further or better evidence of an existing matter. The assessment will always be fact sensitive. The appellant made the broad assertion in the grounds of appeal that the "removal of the appellant will breach the UK's obligations under the Refugee Convention". He simply claimed that he was interviewed by staff from the Zimbabwean Embassy on 28th November 2019, when details of his family in Zimbabwe and the UK were taken by the officials. It was said that the "*.. Appellant fears to return to Zimbabwe, the situation has not changed and has nowhere else to go..*".

31. The respondent had not given consent to the new matter being considered and unless and until the respondent expressly gives consent for the consideration of a new matter by the Tribunal, an appellant must be aware the issues may not be considered. There is no power for the First-tier Tribunal, or the Upper Tribunal to determine whether the respondent has appropriately or fairly withheld consent. It is plainly unfortunate that the matter was not addressed by the parties either at the Case Management Review or at the hearing of the appeal as a preliminary matter. If the Tribunal had considered the new matter without the SSHD giving consent for it to do so, it would have been acting outside its jurisdiction. I therefore reject the claim that Judge Farmer erred in failing to determine whether removal of the appellant in pursuance of the deportation order would breach the appellant's Convention rights.

Failing to give sufficient and adequate reasons for the finding that the appellant does not have a genuine and subsisting parental relationship with his children

32. At paragraphs [36] to [44] Judge Farmer carefully consider the evidence before the Tribunal regarding the appellant's relationship with his children. She noted, at [36], that the evidence is historic, and given the evidence of the appellant, it is surprising that more up-to-date evidence had not been produced. She noted that is particularly so in circumstances where the respondent had repeatedly asked the appellant to provide evidence of his ongoing relationship with his children and had criticised the appellant for failing to provide it in the respondent's decision.
33. I reject the claim that Judge Farmer failed to give adequate reasons for finding that the appellant has failed to establish to the required standard, that he has ongoing direct contact with the children. In reaching her decision, Judge Farmer referred to the previous decision of Immigration Judge Lewis promulgated in 2011 in which the Judge found there to be an ongoing relationship between the appellant and his children. It was the lack of any evidence to establish ongoing contact, that in the end, led Judge Farmer to conclude that the appellant does not have any ongoing direct contact with them.

34. In MD (Turkey) v SSHD [2017] EWCA Civ 1958 the Court of Appeal confirmed that adequacy meant no more nor less than that. It was not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. The purpose of the duty to give reasons, is in part, to enable the losing party to know why he or she has lost and it is also to enable an appellate court or tribunal to see what the reasons for the decision are so that they can be examined in case there has been an error of approach. The assessment of such a claim is always a highly fact sensitive task. Judge Farmer was required to consider the evidence that was before the First-tier Tribunal as a whole, and she plainly did so, giving adequate reasons for her decision. The findings and conclusions reached by the judge are neither irrational nor unreasonable. The decision was one that was open to the judge on the evidence before her and the findings made.
35. It follows that in my judgement it was open to Judge Farmer to dismiss the appeal for the reasons set out in her decision. I have considered whether the erroneous factual summary set out in paragraphs [22] to [26] of the decision was material to the outcome of the appeal. It was unfortunate, and as the parties agree, careless. However, at paragraphs [27] to [64] of the decision Judge Farmer sets out her findings and conclusions, and it is clear that she carefully engaged with the claim advanced by the appellant. The findings and conclusions are rooted in the claim that was advanced by the appellant and the evidence that was before the First-tier Tribunal. I am satisfied that in reaching her decision Judge Farmer did not address the appeal on the basis of anything said in the erroneous factual summary. I am entirely satisfied that she properly addressed the appellant's appeal and the evidence that was before the Tribunal, such that the reference to an erroneous factual summary, was not material to the outcome of the appeal.
36. I reject the appellant's grounds of appeal and the appeal is dismissed.

Notice of Decision

37. The appeal is dismissed, and the decision of FtT Judge Farmer promulgated on 18th March 2020 stands.
38. I continue the anonymity direction made by the First-tier Tribunal.

Signed *V. Mandalia*
Upper Tribunal Judge Mandalia

Date:14th December 2020