



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/10446/2019**

THE IMMIGRATION ACTS

**Heard at George House, Decision & Reasons promulgated
Edinburgh On 12 January 2022 On 27 January 2022**

Before

UT JUDGE MACLEMAN

Between

Z J

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, instructed by Maguire, Solicitors
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge Cowx dismissed the appellant's appeal by a decision promulgated on 23 January 2020.
2. A panel of the UT comprising the President, the Vice-President and Lord Matthews granted permission to appeal, after an oral hearing, by a decision promulgated on 12 November 2021: ...

There is arguable merit in the submission that at [6] [the Judge] reached a negative assessment of the appellant's credibility, and only then asked himself whether that assessment was displaced by other material ...

3. Permission was granted on all grounds, as set out at [3, 4, & 5 (i) - (ii)] of the appellant's application dated 16 March 2021.
4. On the main point on which permission was granted, Mr Diwyncz relied upon a rule 24 response dated 2 December 2021. This argues that the FtT noted the only new evidence and found it to have limited weight in light of

previous findings, which was “not a rejection of the entirety of the account but rather an assessment of part of the evidence”, and was followed by a consideration in the round.

5. I did not find that analysis accurate. The decision begins to consider the claim at [6], the last sentence of which says that the Judge shares a previous negative assessment of the appellant’s account and “*for this reason*” is “*not persuaded that she is at risk of honour-based violence*”. That is an overall conclusion, rather than a starting point. The opening sentence of the next paragraph [6.1] follows on, “*I am also not satisfied by a claim that she has been prosecuted and convicted in her absence*”. That reads as a negative assessment followed by reasons not to displace it. The decision does not read as a resolution in the round.
6. Representatives agreed that on that view, the case was apt for remittal for a fresh hearing.
7. In that light, there was no need to make findings on the rest of the grounds. It is sufficient to record that whether the appellant has done what he might be expected to do to show the reliability of documentary evidence and whether, exceptionally, responsibility to investigate that evidence has passed to the respondent, are live issues.
8. Under section 12 of the 2007 Act, and under Practice Statement 7.2, the decision of the FtT is set aside, and the case is remitted to the FtT for a fresh hearing, not before Judge Cowx.
9. The FtT’s anonymity direction is maintained at this stage.



13 January 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal’s decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A **“working day”** means any day except a **Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday**.
6. The date when the decision is **“sent”** is that appearing on the covering letter or covering email.