



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: UI-2021-001668  
(HU/50260/2020); IA/00748/2020**

**THE IMMIGRATION ACTS**

**Heard at George House,  
Edinburgh  
On the 19 October 2022**

**Decision & Reasons Promulgated  
On the 14 November 2022**

**Before**

**UT JUDGE MACLEMAN**

**Between**

**WALEED ALI HUSSEIN**

Appellant

and

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

Respondent

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors  
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. FtT Judge Cowx decided the appellant's appeal by a decision dated 11 August 2021. At [11] he said that it was for the appellant to make his case "on balance of probabilities". At [64-65] he said that the appeal was "dismissed on the human rights grounds ... [and] ... on the article 8 private life grounds".

2. At [14] the Judge said that there had been a previous appeal, and that this was “not a further claim to asylum”. However, the appellant clearly advanced his case as a “a fresh claim for asylum” and for humanitarian protection.
3. The appellant sought permission to appeal to the UT. The first and principal point in his grounds is that the Judge applied “too high a standard of proof”.
4. On 6 October 2021 FtT Judge L K Gibbs granted permission, observing that apart from the general self-direction, the decision also referred to risk of harm not being “convincingly” explained and to not having seen “convincing evidence”.
5. Mr Mullen for the respondent conceded, inevitably, that the decision of the FtT was affected by error on a point of law and could not stand.
6. Under section 12 of the 2007 Act, and under Practice Statement 7.2, the decision of the FtT is set aside. It stands only as a record of what was said. The case is remitted to the FtT for a fresh hearing, not before Judge Cowx.
7. No anonymity direction has been requested or made.

H Macleman

19 October 2022  
UT Judge Macleman

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#### 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.**