IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005380

First-tier Tribunal No:
PA/00029/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 17 September 2024

Before

UPPER TRIBUNAL JUDGE SMITH

Between

ANTHONY OLIVER WRIGHT

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Wright appeared in person
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

Heard at Field House on Thursday 22 August 2024

DECISION AND DIRECTIONS

BACKGROUND

1. By a decision promulgated on 24 April 2024, I found an error of law in the decision of First-tier Tribunal Judge G J Ferguson itself dated 13 September 2023 dismissing the Appellant's appeal against the Respondent's decision dated 8 July 2022 refusing his protection and human rights claims made in the context of a removal to Jamaica.

2. In consequence of the errors found, I set aside part of Judge Ferguson's decision which dealt with the Appellant's human rights. I expressly

preserved the Judge's findings and dismissal of the Appellant's appeal on protection grounds. That is therefore no longer a live issue before me.

3. I also gave directions for the parties to file evidence relating to the remaining issues which are the Appellant's medical claim (on Articles 3 and 8 ECHR) and Article 8 ECHR more generally (including whether there are very significant obstacles to the Appellant's integration in Jamaica). Some further limited evidence was provided by the Appellant. In addition, Mr Melvin provided me at the hearing with the most up-to-date Country Policy and Information Note regarding medical treatment in Jamaica entitled "Jamaica: Medical and healthcare issues" dated March 2020 ("the CPIN"). Although I referred to the CPIN in my error of law decision, as Mr Melvin accepted, the CPIN has currently been withdrawn from publication. However, that is probably the most recent, comprehensive, background evidence which I have and, as such, I have taken it into account in what follows.

4. I had before me a bundle containing the background documents to the appeal in this Tribunal as well as the Appellant's and Respondent's bundles before the First-tier Tribunal. That runs to 439 pages (pdf) and, as the Appellant's bundles are not all paginated, I therefore refer to pages within the fuller bundle below as [B/xx]. I also had a skeleton argument from Mr Melvin.

5. The Appellant gave oral evidence and was cross-examined, and I asked a few questions by way of clarification. Having heard submissions from Mr Melvin and the Appellant, I indicated that I would reserve my decision and provide that in writing which I now turn to do.

ISSUES AND LEGAL FRAMEWORK

6. The first issue to be determined is the Appellant's medical claim. He has end-stage renal failure which is currently being treated by dialysis three times per week. He has been recommended to be added to the transplant list but has so far refused this for reasons which I come to when dealing with his evidence.

7. In relation to the Appellant's medical claim, I set out at [17] of my error of law decision this Tribunal's guidance in AM (Art 3; health cases) Zimbabwe [2022] UKUT 131 ("AM (Zimbabwe)") and I do not therefore need to repeat this.

8. The Respondent accepts that the Appellant is seriously ill. Although there was limited evidence about the impact of a withdrawal of dialysis on the Appellant's condition, I accept that this would have very serious and potentially fatal consequences. At best, it would reduce his life expectancy significantly. I did not understand this to be disputed by the Respondent.

9. The issue therefore becomes one of availability of and accessibility to dialysis and possibly a transplant on return to Jamaica. Again, the Appellant accepts that dialysis at least is available but says that there are long waiting lists for treatment at public cost and that the cost of private health treatment is prohibitive, particularly since he is unable to work.

10. In broad summary, it is for the Appellant to make out a prima facie case that treatment is not available or accessible such that he would be subjected to a real risk of "(a) a serious, rapid and irreversible decline in his …state of health resulting in intense suffering, or, (b) to a significant reduction in life expectancy". If he establishes such a prima facie case, then it is for the Respondent to provide evidence to rebut the evidence provided by the Appellant or to obtain assurances prior to removal.

11. Even if the Appellant is unable to meet the threshold under Article 3 ECHR, his medical condition is still relevant to his Article 8 claim both within the Immigration Rules ("Rules") and outside them.

12. Within the Rules, the Appellant says that he has been in the UK for over twenty years. Mr Melvin urged me not to accept this as Judge Ferguson had rejected the Appellant's case in this regard and made a finding which was unchallenged. That finding appeared however at [35] of Judge Ferguson's decision in the section which I set aside. Since I heard evidence from the Appellant about his time in the UK, I indicated to Mr Melvin that I would reconsider this issue. It is worth noting however that the Appellant told me that he has recently made a further application to the Respondent relying on his length of residence in light of what was said by Judge Ferguson at [31] of his decision. Under paragraph PL.5.1(a) of Appendix Private Life to the Rules, the Appellant would have to show that he met the twenty years' requirement as at date of application. However, if he could show that he meets that requirement at date of hearing, that is a relevant factor when considering Article 8 outside the Rules.

13. Also within the Rules, I have to consider whether the Appellant can show that there are very significant obstacles to his integration in Jamaica (now to be found at paragraph PL.5.1(b) of Appendix Private Life to the Rules ("Paragraph PL.5.1(b)"). Guidance regarding the test which applies is to be found in the judgment of Sales LJ (as he then was) in Secretary of State for the Home Department v Kamara [2016] EWCA Civ 813 ("Kamara") as follows:

> "14. In my view, the concept of a foreign criminal's 'integration' into the country to which it is proposed that he be deported, as set out in section 117C(4)(c) and paragraph 399A, is a broad one. It is not confined to the mere ability to find a job or to sustain life while living in the other country. It is not appropriate to treat the statutory language as subject to some gloss and it will usually be sufficient for a court or tribunal simply to direct itself in

> the terms that Parliament has chosen to use. The idea of 'integration' calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life."

I should emphasise for the Appellant's benefit that it is not suggested that he is a foreign criminal but the test which is referred to in this passage is the same wording as that under Paragraph PL.5.1(b) and it is therefore appropriate to have regard to what is there said.

14. The test of very significant obstacles imposes a high threshold. That test was explained by the Court of Appeal in Parveen v Secretary of State for the Home Department [2018] EWCA Civ 932 ("Parveen") at [9] as follows:

> "9. That passage [in Kamara] focuses more on the concept of integration than on what is meant by 'very significant obstacles'. The latter point was recently addressed by the Upper Tribunal (McCloskey J and UTJ Francis) in *Treebhawon v Secretary of State for the Home Department* [2017] UKUT 13 (IAC). At para. 37 of its judgment the UT said:
>
> > 'The other limb of the test, 'very significant obstacles', erects a self-evidently elevated threshold, such that mere hardship, mere difficulty, mere hurdles and mere upheaval or inconvenience, even where multiplied, will generally be insufficient in this context.'
>
> I have to say that I do not find that a very useful gloss on the words of the rule. It is fair enough to observe that the words 'very significant' connote an 'elevated' threshold, and I have no difficulty with the observation that the test will not be met by 'mere inconvenience or upheaval'. But I am not sure that saying that 'mere' hardship or difficulty or hurdles, even if multiplied, will not 'generally' suffice adds anything of substance. The task of the Secretary of State, or the Tribunal, in any given case is simply to assess the obstacles to integration relied on, whether characterised as hardship or difficulty or anything else, and to decide whether they regard them as 'very significant'."

The burden of establishing that there are very significant obstacles to his integration in Jamaica lies with the Appellant.

15. Outside the Rules, there is no dispute between the parties that the Appellant does not enjoy family life with any person in the UK. He does not have a partner or child. He has some extended family members but does not rely on those relationships as having the necessary level of dependency in order to qualify as family life. As such, the issue is the interference with the Appellant's private life.

16. There is no dispute that removal will interfere with the Appellant's private life. Equally, it is not suggested that the interference with private life is not in accordance with the law. The issue therefore is

whether removal is necessary and proportionate when balanced against the public interest. The burden of establishing the level of interference is on the Appellant. Thereafter, the Respondent bears the burden of showing that the interference is justified and proportionate.

17. When considering Article 8 outside the Rules, I am bound to have regard to section 117B Nationality, Immigration and Asylum Act 2002 ("Section 117B") which reads as follows so far as relevant:

> "**Article 8: public interest considerations applicable in all cases**
> (1) The maintenance of effective immigration controls is in the public interest.
> (2) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—
> (a) are less of a burden on taxpayers, and
> (b) are better able to integrate into society.
> (3) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—
> (a) are not a burden on taxpayers, and
> (b) are better able to integrate into society.
> (4) Little weight should be given to—
> (a) a private life, or
> (b) a relationship formed with a qualifying partner,
> that is established by a person at a time when the person is in the United Kingdom unlawfully.
> (5) Little weight should be given to a private life established by a person at a time when the person's immigration status is precarious.
> …"

18. If and insofar as the factors at Section 117B(2) and (3) are met, those are neutral (see Rhuppiah v Secretary of State for the Home Department [2018] UKSC 58 at [57]). However, if those sub-sections are not met, then they are factors which are adverse to the Appellant and in favour of the public interest in removal.

19. It is appropriate when considering Article 8 outside the Rules to balance the factors weighing in the Appellant's favour against the factors which favour the public interest (see Hesham Ali v Secretary of State for the Home Department [2016] UKSC 60 at [83]).

20. Keeping those self-directions firmly in mind, I turn to the evidence, my findings about that evidence and my conclusions on the issues set out above.

EVIDENCE AND FINDINGS

21. The Appellant's appeal against the Decision has been granted permission on human rights grounds only. As such, there is no ongoing

challenge to the dismissal of the appeal on protection grounds and I need say no more about that.

22. I begin with the evidence relating to the Appellant's medical claim. A letter at [B/29-30] from the Appellant's GP dated 3 March 2024 confirms that the Appellant has had "chronic end stage kidney failure" since 2016. He was started on peritoneal dialysis and has been undergoing haemodialysis for the past eight years. The letter indicates that "[d]ialysis causes extreme tiredness, breathlessness, and poor quality of life with restrictions as individual cannot miss his sessions". The GP goes on to say that the Appellant "is a prime candidate for Kidney transplant to improve his quality of life and reduce burden on his health both physically and psychologically" but the GP confirms the evidence which the Appellant gave orally that he has presently refused to be added to the transplant list because he is concerned that this might interfere with his appeal.

23. Although the GP is a general practitioner and it is not suggested is a specialist in the field of kidney treatment, I did not understand it to be disputed that withdrawal of dialysis treatment would have extremely serious and potentially life-threatening consequences for the Appellant. The Appellant said in evidence that he had missed only one session in the time he had been undergoing dialysis and he had to be admitted to hospital in consequence of the effects. Furthermore, what the GP says is borne out by a letter from Mr Jesky, Renal Consultant from the Royal Free London dated 14 March 2024 ([B/31-32]). He points out that "haemodialysis is a life sustaining treatment".

24. In relation to the potential of a transplant, Mr Jesky says that "[k]idney transplantation is associated with a better quality of life, increased survival and lower healthcare associated costs [when compared with dialysis]". Mr Jesky confirms what the Appellant said in evidence and what is said by the GP about the Appellant's reasons for rejecting a possible transplant at the present time. I reject Mr Melvin's suggestion that the Appellant may have an ulterior motive in refusing a transplant at present as it might reduce his chances of a successful medical claim. In any event, even if that were the Appellant's motive, that would be irrelevant as I have to assess the claim at the date of the hearing before me. Moreover, even if the Appellant were to agree to be added to the list, there can be no certainty that he would receive a transplant in the short or possibly even medium term.

25. In relation to the evidence about treatment available in Jamaica, the Appellant has provided letters and emails from three treatment centres in Jamaica dated between 20 and 29 February 2024 ([B/36-38]). Those show that the cost of private treatment is $200-260 US per session. Given that the Appellant needs three sessions per week, the cost would therefore be in the region of $750 US per week.

26. The Appellant confirmed that he had made no attempt to contact centres in Jamaica offering dialysis in the public sector. He said that he did not need to as he knew from media reports that such facilities are in crisis; they are subject to long waiting lists and would not treat him straightaway.

27. In that regard, the Appellant has provided a document apparently published by the National Library of Medicine in the United States ([B/44-45]). The following extracts from that document provide some information about the public sector provision in Jamaica:

> "In recent years, Jamaica has been facing a growing crisis in its healthcare system, particularly when it comes to kidney dialysis treatment. Kidney disease has become a major public health issue in the country, with a significant increase in the number of patients requiring dialysis treatment. However, the availability of dialysis machines and resources to provide this life-saving treatment has not kept pace with the demand, leading to a serious crisis that is threatening the lives of many Jamaicans.
>
> One of the main issues contributing to the kidney dialysis crisis in Jamaica is the lack of funding and resources allocated to the healthcare system. The government has struggled to invest in infrastructure and equipment for dialysis treatment, leading to a shortage of machines and trained personnel to perform the procedure. This has resulted in long waiting lists for dialysis treatment, with many patients experiencing delays in receiving the care they urgently need.
>
> Another major factor contributing to the crisis is the high cost of dialysis treatment in Jamaica. Many patients are unable to afford the expensive procedure, which can cost thousands of dollars per session. This has forced some patients to forgo treatment altogether putting their lives at risk. The lack of access to affordable dialysis treatment is exacerbating the problem and leading to a higher mortality rate among kidney disease patients in the country."

The author of the article which is entitled "Kidney Dialysis Crisis in Jamaica 2024: a Looming Healthcare Disaster" goes on to make a plea for urgent action to provide increased funding and reduction of cost to tackle the crisis.

28. This article provides some support for the Appellant's case about the availability of treatment in the public sector. However, it is not clear who authored the report nor the reason for it or the information on which it is based. The figures for the cost of private treatment appear exaggerated when compared with the information obtained by the Appellant directly from private treatment centres and I cannot therefore be confident that the article is not exaggerated with a view to obtaining increased funding. The article is also written (on the face of it) by an institution in the US and it is not clear from where their information emanates nor whether that information in itself has exaggerated the problem or is up-to-date. I am unable for those reasons to place weight on this article as to the availability and accessibility of treatment in Jamaica.

29. The fact that cases in Jamaica have increased in recent years is borne out by an article which appears to have been published in a Jamaican online publication entitled "Jamaica grapples with a steady rise in kidney disease cases" dated 3 February 2024 ([B/46-52]). Beyond confirming an increase in cases (possibly arising from an increased awareness of kidney disease), however, the article does not deal with facilities to treat the disease.

30. As indicated previously, Mr Melvin provided me with the CPIN which is somewhat outdated (March 2020) and has also been withdrawn from publication at the present time. Nevertheless, as I have very limited other information, and since this is the source of the information relied upon in the Respondent's decision under challenge, I consider what is there said.

31. Renal disease is dealt with at [18] of the CPIN. It there records that, as at 2019, "up to 150,000" Jamaicans suffered from kidney disease and that the authorities had therefore been working to address the issue. It appears from the 2019 report there cited that private treatment was costing at that time "up to $80,000 per week". It is not clear whether that is Jamaican or US dollars but in either event, that appears to be significantly more expensive than the figures which the Appellant has obtained recently. The report there cited goes on to say that "the Government provides some support" but could not provide support to everyone affected.

32. In terms of general healthcare, the CPIN recognises at [1] of the document that Jamaican healthcare services suffer from lack of resources and that many Jamaicans are forced to access private healthcare as a result. However, that section also indicates that the National Health Fund helps Jamaicans to access medication and provides grants to institutions to improve delivery of healthcare. The figures provided at [1.1.5] show that Jamaica's public sector provision is higher in terms of capacity than its private sector provision. At [1.1.7], the CPIN makes reference to the availability of subsidised healthcare to elderly residents (over age sixty) but also to those on "the Vital Essential and Necessary (VEN) list". One of the subsidies available does not appear to include renal disease as one of the seventeen chronic illnesses covered (see [1.1.8]) but that does not appear to relate to the VEN list.

33. None of the material which is before me provides information about prioritisation of public sector care depending on need (save for the limited information about the VEN list). I therefore have no evidence to support a case that the Jamaican authorities would refuse public sector treatment where that was essential for a person's survival or to prevent serious health consequences.

34. I move on then to consider the Appellant's Article 8 claim, focussing first on evidence about the situation which would face him on return to Jamaica.

35. The Appellant has one sister living in the US. She is married with two children. She and her husband live in Florida. His sister is a dressmaker and her husband a bus driver. I have no evidence from either of them.

36. The Appellant for the first time at the hearing before me said that his mother who remains in Jamaica is now living in a care home. He has provided no evidence that this is so but as he is not legally represented, he may not have realised that he needed to provide it. I accept that his mother is living in a care home. As he pointed out, she is now elderly. At the time of his asylum interview he said that she was being cared for by her sister ([B/395]) and in his grounds of appeal in 2022 that she was senile ([B/233]). A move to a care home would not therefore be inconsistent with his previous evidence. He could not say how long she had been in the care home nor whether this was a public or private sector care home. He did indicate however that there was a cost involved because he said that his sister paid for the care home.

37. Although the Appellant said that for his sister to help him financially on return to Jamaica would be "a struggle", I have no evidence about her income or financial means. The Appellant has not shown that, if he needed money, she would not be able to provide it. I accept however that her circumstances may be such that paying for his medical treatment (if at full cost) may well not be possible.

38. In the UK, the Appellant is largely dependent on the State. He lives alone in a home provided to him on a permanent basis. His rent is subsidised. He pays some rent and council tax. He receives financial assistance from friends and family members (two cousins) who check up on him every week. He also receives financial support by way of grants from Grocery Aid (due to his previous employment in the food sector) and the Kidney Foundation. Although the Appellant was previously in receipt of Personal Independence Payments (PIPs), those were discontinued. He explained in his evidence that payments had stopped last year. Before that, he was given PIPs due to a lack of mobility which had occurred because he had a fistula inserted. His mobility problems had abated and as a result, when reviewed, the PIPs were discontinued.

39. The Appellant also has a daughter with a Polish woman with whom he was previously in a relationship, but he is estranged from the woman concerned and his daughter lives with her in Poland. There is no evidence of any ongoing contact.

40. Although the Appellant said that his cousins and friends who provide him with some financial support in the UK would be unable to do so if

he were to return to Jamaica, I have no evidence from them to that effect. Equally, however, I have no evidence that the Appellant might be able to obtain the sort of State support that he has in the UK on return to Jamaica. I accept that he worked in Jamaica before coming to the UK but there is no evidence about any benefits system available to him on return and Mr Melvin did not suggest that such support would be available.

41. There is some dispute regarding the Appellant's length of residence in the UK. I set aside the finding of Judge Ferguson that the Appellant entered the UK in March 2005. I therefore deal with the evidence which I have on this issue.

42. There is no doubt that the Appellant was in the UK by 2006. A letter from Ferndale Foods dated 3 October 2018 ([B/325]) confirms that he was employed by them from November 2006 to July 2018. His resignation due to ill-health is consistent with his account that he was diagnosed with renal failure in 2016, underwent a period of sick leave thereafter and resigned in 2018 as he was found not to be fit to work. That is confirmed by other documents from that company. It is also consistent with the receipt of support from Grocery Aid.

43. When interviewed in relation to his asylum claim in November 2018, he said he had come to the UK in March 2002 ([B/280]). That is consistent with his claim to have worked as a police officer from 1997 (graduating in 1999) until March 2002 ([B/281]). It is also consistent with his recollection that he left Jamaica in the month that Louis Farrakhan visited Jamaica (answer to question 91 at [B/308]) although that may have been one of many visits by Louis Farrakhan or even an earlier visit by the Appellant to the UK so is not determinative.

44. When the Appellant was encountered in 2018, he claimed to have entered the UK in 1999 ([B/359]). He said at his asylum interview that he was scared and therefore gave a wrong date ([B/317]). It is not clear to me why he would have said that he had arrived on a date different from the one he now gives and the giving of a false date casts doubt on his credibility in this regard.

45. There is evidence that the Appellant has had Jamaican passports issued to him since he claims to have left Jamaica. He claimed in his asylum interview that the one issued to him for the period 2004 to 2014 was issued by the High Commission in London ([B/316]). That passport bears the visa which was later found not to be genuine.

46. The passport and residence permit are at [B/437]. Although both that and the passport issued to the Appellant in 2015 ([B/436]) indicate that they were issued in Kingston, that does not mean that the Appellant was necessarily in Jamaica at those dates. I accept that a passport may be issued by post which would be consistent with the Appellant's claim that he sent off by post for a new passport in 2015 (see notes on the

copy of the old passport at [B/437]). If the previous passport was, as the Appellant says, obtained by him in person in London, I would expect it to indicate that it was issued in London and not Kingston. However, absent evidence of the practice of the Jamaican High Commission, I accept that is not determinative.

47. The residence permit itself dates from 2005. That would then be consistent with him having obtained employment in 2006 using that visa. That however raises the question of what he was doing before 2005/2006 if he arrived in the UK as he now claims in 2002.

48. The Appellant claims to have been a self-employed painter and decorator from 2002 to 2005 ([B/426]) but there is no evidence corroborating that (from for example past customers or confirming that he paid tax and national insurance). There is a national insurance card at [B/438] but that does not indicate when it was issued, and the Appellant has not obtained any evidence from the relevant government department to show the date when it was issued or confirming payments of tax or national insurance for the period 2002 to 2005. I can therefore derive no assistance from this.

49. Further, when the Appellant was asked at his asylum interview about the circumstance in which he had obtained the false visa ([B/416]), he said that when he came to the UK, his friend who was previously in the Jamaican police force but had moved to the UK indicated that he had contacts in the Home Office who could get him a visa to live and work. It was for that reason that he did not claim asylum at that time. That suggests that the visa was obtained shortly after his arrival in the UK. It would obviously be nonsensical for a visa obtained in 2002 to be dated for three years in the future.

50. Nor is the Appellant's evidence consistent in relation to the visa. The visa appears in a passport which was not issued until 2004. He said in his interview that he arrived using an older passport which he had then renewed in the UK and suggested that the visa had been transferred to the new passport. However, there is no evidence of any earlier passport, and I do not accept that the Home Office would have transferred the visa from one passport to another when it was false. Even if other Government departments and the Jamaican authorities did not realise that the visa was not genuine, the Home Office would recognise this due to an absence of records of one having been issued.

51. Although the Appellant also said that he had to do some work as a painter and decorator for the man who acquired the visa to pay him back for obtaining it ([B/417]), that is only consistent with him doing that work after the man obtained the visa and not before. That would be consistent with the Appellant having obtained the false visa in 2005, having worked as a painter and decorator for the man for a short period thereafter and then having secured employment with Ferndale Foods. That chronology would also be consistent with the Appellant having

obtained the 2004 passport whilst still in Jamaica and having travelled on that passport to the UK.

52. The 2004 passport was issued in December 2004. The residence permit appears to be dated in April 2005. I therefore find that the Appellant came to the UK not in March 2002 as he claims but at a date between December 2004 and April 2005.

53. I accept however that the Appellant has not left the UK since. As I say there is evidence that he was employed from 2006 to 2018. He was thereafter encountered and claimed asylum leading to this appeal.

54. For all those reasons, I find that the Appellant came to the UK in 2005 prior to the date of the residence permit which is dated April 2005. It follows that he has been in the UK for over nineteen years at the date of the hearing before me. It also follows therefore that he cannot meet the Rules in relation to his length of residence even in relation to the application he has made which he said remains pending. I take into account however that over nineteen years is a lengthy period.

55. The impact of removal on the Appellant's private life however depends not on length of residence per se but on the strength of that private life. There is limited information about that. I accept that he has worked for about ten years of the period he has been here. However, other than the letter confirming the employment, there is no evidence from previous colleagues. As I have already noted, there is a lack of evidence from the cousins or friends who are said to have assisted the Appellant with financial support.

56. I do however have letters of support from three individuals who know the Appellant through his dialysis treatment. At [B/245] is a letter dated 24 December 2022 from a Mr Harrison Westgarth who is an elderly retired Metropolitan Police Sergeant. The Appellant assisted Mr Westgarth when Mr Westgarth began his dialysis treatment. He speaks of the Appellant's "pleasant disposition" and uncomplaining nature and records that the Appellant helps other patients with advice and is well-liked by the staff.

57. The latter point is confirmed by a letter dated 29 December 2022 at [B/247] from Dr Peter Dupon PhD, FRCPI, Consultant Nephrologist and UCL Honorary Associate Professor based at the Barnet Rental Unit. He has known the Appellant for seven years. He says that the Appellant is "well loved by the Patients and Staff at the unit". The Appellant is "always trying to help the less vulnerable than himself". Dr Dupont commends the Appellant's character and conduct which he finds to be "exemplary". Similar comments come from Roble Abdella who I understand to be a nurse at the Barnet Renal Unit whose email dated 1 January 2023 is at [B/249].

DISCUSSION AND CONCLUSIONS

58. I begin with the Appellant's Article 3 claim. Applying the guidance set out in AM (Zimbabwe) I accept insofar as it is not in any event conceded by the Respondent that the Appellant is a seriously ill person and that, if he did not have access to the dialysis treatment which he is receiving currently there would be a real risk of him being exposed to a serious, rapid and irreversible decline in his health resulting in intense suffering or to a significant reduction in life expectancy.

59. However, the Appellant also has to establish a prima facie case that the treatment he receives in the UK or suitable alternative treatment is either unavailable in Jamaica or inaccessible to him. The Appellant accepts that similar or the same treatment is available but says that it is not accessible due to its cost. I have accepted that the Appellant would be unlikely to be able to afford treatment in the private sector. However, the Appellant has not established on the evidence put forward that treatment in the public sector would not be available to him. Although the evidence shows that resources are limited, it does not show that such treatment would not be prioritised according to need and that the treatment that the Appellant needs to sustain his life would not therefore be afforded to him.

60. For those reasons, the human rights claim on Article 3 grounds fails. As I have noted repeatedly, the dismissal of the Appellant's claim on protection grounds was preserved by my error of law decision and accordingly there is no claim on Article 3 grounds in that regard.

61. I therefore turn to Article 8 ECHR. There is no claim based on any family life in the UK. Although the Appellant has a daughter by a previous partner, that child lives in Poland with her mother and the Appellant has no contact. The claim is therefore based only on the Appellant's private life.

62. I have not accepted on the evidence that the Appellant has been in the UK for twenty years as at the date of his application (nor even the date of his further application which remains pending with the Respondent), the date of the Respondent's decision under appeal or the date of hearing before me. It follows that the Appellant cannot succeed under Paragraph 5.1(a) of Appendix Private Life to the Rules.

63. The Appellant claims that there would be very significant obstacles to his integration in Jamaica and can meet Paragraph PL.5.1(b). In essence, those obstacles stem from his length of residence in the UK and therefore lack of familiarity with the Jamaican way of life, his lack of continuing family ties in Jamaica and his health condition which includes the fact that he is unable to work.

64. Although I have not accepted that the Appellant has been in the UK for over twenty years, on my findings he has been here for well over nineteen years. I accept Mr Melvin's submission that this does not

necessarily mean that he has lost connections to Jamaica or familiarity with the Jamaican way of life. He was after all an adult when he left Jamaica. He was born there, grew up and was educated there and even worked there for a period. I agree with Mr Melvin that he can therefore be expected to have retained a familiarity with the way of life in Jamaica.

65. However, what has changed since he left is that he has lost family connections and developed a serious health condition.

66. I have accepted the Appellant's evidence that his sister has moved away from Jamaica and now lives in the US with her family. She may be able to assist the Appellant financially on return but would not be physically present in Jamaica to assist the Appellant's integration. His mother is in a care home and therefore not in a position to support him to reintegrate. I accept the Appellant's evidence that he has no contact with any other family members in Jamaica. He has cousins in the UK. Again, they may be able to assist him financially on return but would not be there to assist his integration.

67. Although the Appellant's health condition is not directly relevant to his ability to reintegrate it is indirectly relevant to the issue of his ability to form new relationships on return. He is unable to work. As here, he may be able to form new relationships with those who are in the same position as him and receiving treatment but after such a long period of absence, coupled with the need to find, unassisted, access to treatment through the public sector, I am persuaded that the Appellant would find it very difficult indeed to reintegrate. Moreover, although I have no evidence one way or another, I have found that the Appellant may well not be entitled to the level of support by way of benefits that he receives in the UK (although may still be able to claim his grant from Grocery Aid). The lack of any regular income is very likely to impact on his ability to reintegrate.

68. Applying Paragraph PL.5.1(b) and the test of very significant obstacles as explained in Kamara and the threshold which applies to that test (see Parveen), I am satisfied on the evidence he has provided that the Appellant would indeed face very significant obstacles to his integration in Jamaica. Although he may still have sufficient awareness of how Jamaican society works, I am satisfied that his capacity to participate in that society will be significantly restricted by his health condition and in particular his inability to work. Those factors in turn will impact on his ability to form new relationships within a reasonable time in order to give substance to his private life in Jamaica.

69. I therefore conclude that Paragraph PL.5.1(b) is met.

70. Of course, the issue for me is whether the decision to remove the Appellant breaches his Article 8 rights based on the interference with his private life.

71. There is very limited evidence about the Appellant's private life in the UK. He has worked here and lived here for a significant period. However, his relationships in the UK are limited to friendships with his cousins and friends none of whom have given evidence. The only evidence is from those with whom he has developed a relationship whilst receiving dialysis treatment. That does not mean that I should give any less weight to those relationships, but the evidence remains limited.

72. However, I have found that the Appellant will face very significant obstacles to his integration in Jamaica. The policy as set out in the Rules is such that this means that removal would breach the Appellant's Article 8 private life rights whatever the nature and extent of his private life in the UK.

73. Equally, having regard to the public interest, many of the factors set out in Section 117B are adverse to the Appellant. Although he speaks English, he is unable to work in the UK and is a drain on resources through his receipt of various benefits, subsidised accommodation and free healthcare. His private life is deserving of little weight on the basis that he has lived and worked here unlawfully and has also used a false visa to work (even though he was not prosecuted for any offence in that regard).

74. However, once again, Section 117B (1) provides that maintenance of effective immigration control is in the public interest, and it is relevant in that regard that the Appellant can meet Paragraph PL.5.1(b). That means that it is accepted that, if the Appellant can show that there are very significant obstacles to his integration in his home country, the interference with his private life is determined as a matter of policy to outweigh the public interest unless there are adverse suitability factors which are not relied on by the Respondent in this case.

75. For those reasons, I am satisfied that the Respondent's decision to remove the Appellant is disproportionate based on the impact on his private life which removal would entail (in turn based on the situation he would face in Jamaica). Accordingly, I allow the appeal.

NOTICE OF DECISION

The appeal is allowed on human rights grounds (Article 8 ECHR). The appeal remains dismissed on protection grounds. The appeal is also dismissed on human rights grounds (Article 3 ECHR).

L K Smith
Upper Tribunal Judge Smith
Judge of the Upper Tribunal
Immigration and Asylum Chamber

16 September 2024

APPENDIX: ERROR OF LAW DECISION

IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005380

First-tier Tribunal No:
PA/00029/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

.....30/04/2024.....

Before

UPPER TRIBUNAL JUDGE SMITH

Between

ANTHONY OLIVER WRIGHT

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Wright appeared in person
For the Respondent: Mr K Ojo, Senior Home Office Presenting Officer

Heard at Field House on Tuesday 16 April 2024

DECISION AND DIRECTIONS

BACKGROUND

1. The Appellant appeals against the decision of First-tier Tribunal Judge G J Ferguson dated 13 September 2023 ("the Decision") dismissing the Appellant's appeal against the Respondent's decision dated 8 July 2022

refusing his protection and human rights claims made in the context of a removal to Jamaica.

2. The Appellant's appeal against the Decision has been granted permission on human rights grounds only. As such, there is no ongoing challenge to the dismissal of the appeal on protection grounds and I need say no more about that.

3. The Appellant's human rights claims are based on Articles 3 and 8 ECHR relying on his private life in the UK but primarily based on his medical condition. He has end stage renal failure which is treated by dialysis. He undergoes three sessions per week, each of four and a half hours. Those treating him have also considered him as suitable for a transplant.

4. In relation to his human rights, Judge Ferguson found that the Appellant has his mother still living in Jamaica who could offer him support. He found that there would be no "cultural, linguistic or other obstacles to him reintegrating into a country where he has such strong previous ties" ([29]). He went on to consider the medical evidence regarding the Appellant's renal condition but concluded that the Appellant had not met the burden on him of showing that treatment for that condition would not be available or would be too expensive for him to access ([30]). The Judge considered the evidence about the Appellant's period of residence in the UK. Based on a passport which bore a residence permit (said to be false) dated 12 April 2005, the Judge found at [35] of the Decision that the Appellant had entered the UK in March 2005 and not March 2002 as the Appellant claimed. The Judge noted at [36] of the Decision that if the Appellant could provide evidence that he had entered in 2002 using a different passport, he may be able to show that he had resided in the UK for twenty years but on the basis of the evidence before the Judge that was not accepted.

5. The Appellant is in person. He challenged the Decision on the basis that there was not enough evidence to support it (although it is also suggested that this relates to the Judge's finding that there was not enough evidence provided by the Appellant). He said that he had not had the chance to explain himself. He argued that he would not be able to access dialysis in Jamaica due to the cost. He said that the likely deterioration in his medical condition had not been adequately considered. He provided more medical evidence regarding his condition and treatment in Jamaica for that condition.

6. Permission to appeal was refused by First-tier Tribunal Judge J M Dixon on 11 November 2023 for the following reasons so far as relevant:

> "..4. The grounds do not properly identify any errors of law. I have carefully considered the decision given that the appellant is unrepresented. The judge has carefully considered the evidence and for clear and cogent reasons rejected the credibility of the asylum [sic] (paragraphs 20-26). He

also arrived at sustainable findings in respect of the issues of very significant obstacles to integration, 20-year years' [sic] residence and Article 8 out with the rules.
5. The decision does not disclose any arguable error of law."

7. The application for permission was renewed to this Tribunal. It was considered in detail by Upper Tribunal Judge Kopieczek. Having rejected the Appellant's grounds relating to his protection claim which Judge Kopieczek concluded were merely a rearguing of the Appellant's case, the Judge went on to say the following:

"..3. It is appropriate to deal next with the Article 3 health ground. It is accepted that the appellant requires kidney dialysis three times a week. There is medical evidence to that effect, and indeed his consultant was one of the people who wrote a character reference for the appellant. Judge Ferguson found at paragraph 30 that the appellant had 'not provided any evidence on which to base a conclusion that he would not be able to receive dialysis in Jamaica either because it is not available or because it is too expensive'.
4. With the grounds in support of this application the appellant has provided an article dated 3 May 2022 about the availability of kidney dialysis in Jamaica entitled 'Kidney disease crisis!' but it does not appear that this is evidence that was put before Judge Ferguson. As far as I can see, it was not in the appellant's bundle.
5. However, I cannot see in Judge Ferguson's decision any reference to relevant and important authority in relation to Article 3 health cases, in particular *AM (Zimbabwe) v Secretary of State for the Home Department [2020] UKSC 17.* These issues were given further consideration by the Upper Tribunal in *AM (Art 3; health cases) Zimbabwe [2022] UKUT 00131 (IAC).*
6. Although Judge Ferguson was entitled to point to the fact that the appellant did not provide any supporting evidence in relation to the availability of treatment for his condition in Jamaica, it is not apparent that Judge Ferguson considered the background material that is referred to in the respondent's decision letter, i.e. the Country Policy Information Note Jamaica: Medical and Healthcare issues (version 1.0, dated March 2020) ('CPIN') or the footnote (20) to the respondent's decision paragraph 74. That is quite apart from the fact that the CPIN is a document in the public domain which has a section on renal disease at paragraph 18, and which Judge Ferguson arguably ought to have considered, after informing the parties, given that the appellant is a litigant in person.
7. With reference to that background information, contained in the respondent's decision letter, Judge Ferguson would have been able to make an informed evaluation of the availability of kidney dialysis which it is accepted that the appellant must have, in conjunction with the appellant's evidence and within the context of the judicial guidance in the authorities to which I have referred.
8. It is arguable that the judge's failure to consider available background evidence and relevant authority amounts to an error of law in relation to his decision with respect to Article 3.
9. As regards Article 8, Judge Ferguson conducted a detailed consideration of the appellant's length of residence in the UK. The grounds of appeal do not establish any arguable error of law in that distinct respect. However, because the question of very significant obstacles to integration is

> linked to the appellant's Article 3 claim, and his need for kidney dialysis requires consideration in terms of the very significant obstacles to integration issue, I grant permission in respect of the Article 8 ground as well.
> 10. Permission is refused, however, in relation to the asylum and humanitarian protection grounds of appeal.
> 11. I shall give listing directions which reflect the appellant's need to attend hospital for kidney dialysis."

8. I had before me a bundle including the core documents for the appeal, as well as the Appellant's and Respondent's evidence before the First-tier Tribunal. At this stage, the issues are largely ones of law and I need refer only to very few documents.

9. The matter came before me as an error of law hearing. As such, the only issue for me to determine at this stage is whether there is an error of law in the Decision. If I conclude that there is, I have to consider whether to set aside the Decision in consequence. If I do so, I either have to remit the appeal to the First-tier Tribunal or re-make the decision in this Tribunal, if necessary at an adjourned resumed hearing.

10. Mr Wright addressed me in relation to his case and Mr Ojo made submissions in response. Having heard those submissions, I indicated that I found an error of law in the Decision and would set that aside and I gave directions for a resumed hearing before me. I indicated that I would set out my reasons in writing to assist Mr Wright in particular in the preparation of his case at the resumed hearing.

DISCUSSION

11. The thrust of the grant of permission to appeal is that the Judge arguably failed to take into account the case law concerning Article 3 medical cases. Mr Ojo submitted that, although the Judge had not cited any case-law, he had applied what was said in the case-law in substance. Mr Wright made the point that he was not a lawyer and could not therefore respond to that submission.

12. The Judge dealt with the medical evidence very briefly at [30] of the Decision as follows:

> "There is medical evidence which confirms that Mr Wright is a renal patient who since 2016 has required kidney dialysis at hospital three times a week. That is obviously a significant ongoing health issue which could be a significant obstacle to integration into Jamaica if dialysis was not available to him. However, the burden of proving that is on Mr Wright and apart from his own opinion he has not provided any evidence on which to base a conclusion that he would not be able to receive dialysis in Jamaica either because it is not available or because it is too expensive."

13. The most recent case-law regarding Article 3 medical cases is the case of AM (Zimbabwe) v Secretary of State for the Home Department

("AM (Zimbabwe)"). That applied the Strasbourg judgment of Paposhvili v Belgium [2017] Imm AR 867 ("Paposhvili"). It is appropriate to begin with the Supreme Court's judgment in AM (Zimbabwe) ([2020] UKSC 17).

14. At [22] of the judgment, the Court cited the test from the judgment in Paposhvili as follows:

> "183. The Court considers that the 'other very exceptional cases' within the meaning of the judgment in *N v The United Kingdom* (para 43) which may raise an issue under article 3 should be understood to refer to situations involving the removal of a seriously ill person in which substantial grounds have been shown for believing that he or she, although not at imminent risk of dying, would face a real risk, on account of the absence of appropriate treatment in the receiving country or the lack of access to such treatment, of being exposed to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering or to a significant reduction in life expectancy. The Court points out that these situations correspond to a high threshold for the application of article 3 of the Convention in cases concerning the removal of aliens suffering from serious illness."

15. The Court then went on to consider the procedural requirements in order to show that the test was met as follows:

> "32. The Grand Chamber's pronouncements in the *Paposhvili* case about the procedural requirements of article 3, summarised in para 23 above, can on no view be regarded as mere clarification of what the court had previously said; and we may expect that, when it gives judgment in the *Savran* case, the Grand Chamber will shed light on the extent of the requirements. Yet observations on them may even now be made with reasonable confidence. The basic principle is that, if you allege a breach of your rights, it is for you to establish it. But 'Convention proceedings do not in all cases lend themselves to a rigorous application of [that] principle …': *DH v Czech Republic* (2008) 47 EHRR 3, para 179. It is clear that, in application to claims under article 3 to resist return by reference to ill-health, the Grand Chamber has indeed modified that principle. The threshold, set out in para 23(a) above, is for the applicant to adduce evidence 'capable of demonstrating that there are substantial grounds for believing' that article 3 would be violated. It may make formidable intellectual demands on decision-makers who conclude that the evidence does not establish 'substantial grounds' to have to proceed to consider whether nevertheless it is 'capable of demonstrating' them. But, irrespective of the perhaps unnecessary complexity of the test, let no one imagine that it represents an undemanding threshold for an applicant to cross. For the requisite capacity of the evidence adduced by the applicant is to demonstrate 'substantial' grounds for believing that it is a 'very exceptional' case because of a 'real' risk of subjection to 'inhuman' treatment. All three parties accept that Sales LJ was correct, in para 16, to describe the threshold as an obligation on an applicant to raise a 'prima facie case' of potential infringement of article 3. This means a case which, if not challenged or countered, would establish the infringement: see para 112

of a useful analysis in the Determination of the President of the Upper Tribunal and two of its senior judges in *AXB v Secretary of State for the Home Department* [2019] UKUT 397 (IAC). Indeed, as the tribunal proceeded to explain in para 123, the arrangements in the UK are such that the decisions whether the applicant has adduced evidence to the requisite standard and, if so, whether it has been successfully countered fall to be taken initially by the Secretary of State and, in the event of an appeal, again by the First-tier Tribunal.

33. In the event that the applicant presents evidence to the standard addressed above, the returning state can seek to challenge or counter it in the manner helpfully outlined in the judgment in the *Paposhvili* case at paras 187 to 191 and summarised at para 23(b) to (e) above. The premise behind the guidance, surely reasonable, is that, while it is for the applicant to adduce evidence about his or her medical condition, current treatment (including the likely suitability of any other treatment) and the effect on him or her of inability to access it, the returning state is better able to collect evidence about the availability and accessibility of suitable treatment in the receiving state. What will most surprise the first-time reader of the Grand Chamber's judgment is the reference in para 187 to the suggested obligation on the returning state to dispel 'any' doubts raised by the applicant's evidence. But, when the reader reaches para 191 and notes the reference, in precisely the same context, to 'serious doubts', he will realise that 'any' doubts in para 187 means any serious doubts. For proof, or in this case disproof, beyond *all* doubt is a concept rightly unknown to the Convention."

16. As that passage shows (and as Mr Ojo submitted) the burden of demonstrating that the test is met falls on an applicant. It is not for the Respondent to counter evidence unless a prima facie case is established by an applicant. On the other hand, as is also there made clear, the returning state may be in a better position to provide evidence about the extent and nature of treatment available in the applicant's home country (particularly where, as here, the Appellant is in person).

17. When the case of AM (Zimbabwe) returned to this Tribunal, the following guidance was given to Judges considering appeals on Article 3 medical grounds as follows (AM (Art 3; health cases) Zimbabwe [2022] UKUT 131):

"1. In Article 3 health cases two questions in relation to the initial threshold test emerge from the recent authorities of AM (Zimbabwe) v Secretary of State for the Home Department [2020] UKSC 17 and Savran v Denmark (application no. 57467/15):

(1) Has the person (P) discharged the burden of establishing that he or she is 'a seriously ill person'?

(2) Has P adduced evidence 'capable of demonstrating' that 'substantial grounds have been shown for believing' that as 'a seriously ill person', he or she 'would face a real risk':

[i] 'on account of the absence of appropriate treatment in the receiving country or the lack of access to such treatment,

[ii] of being exposed

[a] to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering, or

[b] to a significant reduction in life expectancy'?

2. The first question is relatively straightforward issue and will generally require clear and cogent medical evidence from treating physicians in the UK.

3. The second question is multi-layered. In relation to (2)[ii][a] above, it is insufficient for P to merely establish that his or her condition will worsen upon removal or that there would be serious and detrimental effects. What is required is 'intense suffering'. The nature and extent of the evidence that is necessary will depend on the particular facts of the case. Generally speaking, whilst medical experts based in the UK may be able to assist in this assessment, many cases are likely to turn on the availability of and access to treatment in the receiving state. Such evidence is more likely to be found in reports by reputable organisations and/or clinicians and/or country experts with contemporary knowledge of or expertise in medical treatment and related country conditions in the receiving state. Clinicians directly involved in providing relevant treatment and services in the country of return and with knowledge of treatment options in the public and private sectors, are likely to be particularly helpful.

4. It is only after the threshold test has been met and thus Article 3 is applicable, that the returning state's obligations summarised at [130] of Savran become of relevance - see [135] of Savran."

18. The Judge's brief consideration of the Appellant's Article 3 medical claim does not follow those steps. The issue then becomes one of whether that makes any difference to the outcome (in other words whether the Judge has, as Mr Ojo submitted, applied the test in substance).

19. The first point to make in that regard is that the Judge at [30] of the Decision, conflates the issue of whether there are "very significant obstacles" to integration occasioned by the Appellant's health condition with whether return would breach Article 3. Whilst the latter is no doubt of relevance to the former, the former is not determinative of the latter.

20. I do not understand it to be disputed that the Appellant is seriously ill on account of his condition. Although there was limited evidence before Judge Ferguson about the impact of the withdrawal of dialysis, having heard Mr Wright's evidence about this, I doubt it could be argued that the lack of availability or accessibility of treatment would not lead to the very serious consequences envisaged by the test in Paposhvili (although I remain open to argument on that issue).

21. The issue thereafter becomes one of availability and accessibility of treatment in Jamaica. That may be why the Judge went straight to that issue in the final sentence of [30] of the Decision.

22. It is not entirely clear to me as it was not to Judge Kopieczek whether the article entitled "Kidney Disease Crisis!" was put before Judge

Ferguson. It pre-dates the Decision and therefore could have been. If it was, it clearly would be incorrect to say that there was no evidence that treatment was not available or too expensive. That article suggests that dialysis is available in Jamaica privately but at high cost and availably at public hospitals but that there is a long waiting list for it there.

23. Assuming for the time being, however, that this article was not before the Judge and accepting that the Appellant bears the burden of proving that issue, there was some evidence before the Judge in the Respondent's decision letter. Having set out the test relating to Article 3 medical claims (as above), the Respondent went on to say the following:

> "74. I have considered the medical facilities, treatment and care available in Jamaica. It is noted that CPIN Jamaica: Medical and Healthcare Issues (version 1.0, dated March 2020) paragraph 1.1.1 states 'Jamaica's health system involves a mix of public and private sectors. The public sector is the main provider of primary care, public health and hospital services. The public sector consists of the national Ministry of Health (responsible for policy, planning, regulating, and purchasing functions), four Regional Health Authorities (in charge of health service delivery), a network of primary, secondary and tertiary healthcare facilities and the country medical school. The private sector dominates ambulatory services (75 percent of all outpatient care) and the provision of pharmaceuticals (82 percent of all sales)'. External information also shows that the applicant would be able to access dialysis in Jamaica. This indicates that there is a substantial public health programme in Jamaica."

24. The latter assertion in that paragraph is footnoted to an article from 2021 which shows that eight new dialysis machines were supplied to Mandeville Hospital in Jamaica. What is not mentioned in the Respondent's decision, however, is, first, that these were replacing existing, obsolete machines and, second, that those were to serve about nine hundred dialysis patients.

25. The Judge was entitled to observe that the burden of proving his case lay with the Appellant. However, particularly where the Appellant was in person, it was an error for the Judge not to consider the evidence he did have before him in the form of the article on which the Respondent relied but also the Country Policy and Information Note ("CPIN") which is referred to in the decision letter. Had he done so, he would have found an entire section of that CPIN which is devoted to renal care. I do not at this stage deal with what that says, save to observe that I cannot conclude on that evidence that, had it been considered, the Appellant would still have lost on this issue.

26. Before concluding, it is necessary to disabuse the Appellant of his misunderstanding of the case of AM (Zimbabwe). Contrary to his understanding, that case concerned a main appellant who was suffering from a medical condition (HIV). The condition was not of his child.

Second, although the medical claim in that case arose in a deportation context, that is not relevant to the test which applies. The test for establishing an Article 3 medical claim remains a high one.

27. Finally, as Judge Kopieczek pointed out, when granting permission, although there is no error made by the Judge in relation to his consideration of the Article 8 claim, the Appellant's medical condition is still relevant to that part of his case. Accordingly, I set aside [28] to [39] of the Decision and the conclusion dismissing the appeal on human rights grounds. I preserve the findings and conclusion in relation to the protection claim at [20] to [27] of the Decision. I gave the directions set out below at the end of the hearing.

NOTICE OF DECISION

The Decision of First-tier Tribunal Judge G J Ferguson dated 13 September 2023 involves the making of an error of law (in relation to the determination of the appeal on human rights grounds only). I set aside [27] to [39] of the Decision and the conclusion dismissing the appeal on human rights grounds. I preserve [20] to [27] of the Decision and the dismissal of the appeal on protection grounds. I make the following directions for the rehearing of this appeal:

DIRECTIONS

28. By no later than 4pm on Friday 17 May 2024, the parties shall file with the Tribunal and serve on each other any further evidence on which they rely in support of their cases (on Article 3 and 8 grounds only).

29. The appeal will be relisted for a resumed hearing before UTJ L Smith on the first available date after Monday 20 May 2024, on either a Tuesday or a Thursday (to accommodate the Appellant's medical treatment). The resumed hearing shall be listed face-to-face with a time estimate of ½ day. No interpreter required.

L K Smith
Upper Tribunal Judge Smith
Judge of the Upper Tribunal
Immigration and Asylum Chamber

18 April 2024