IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003340

First-tier Tribunal No: HU/01249/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

5th December 2024

Before

UPPER TRIBUNAL JUDGE PINDER

Between

K M M
(ANONYMITY ORDER MADE)

Appellant in the FtT

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent in the FtT

Representation:

For the Appellant: Mr J Plowright, Counsel instructed by Mascot Solicitors
For the Respondent: Mr Lindsley, Senior Presenting Officer

Heard at Field House on 23 October 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant (as he was before the FtT) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Secretary of State appeals with the permission of Upper Tribunal Judge Hoffman granted on 22nd August 2024 against the decision of First-tier Tribunal

Judge Dixon. By his decision of 28th May 2024, Judge Dixon ('the Judge') allowed KMM's appeal against the Respondent Secretary of State's decision to refuse his protection and human rights claim.

2. I refer to the Secretary of State as the Respondent and to KMM as the Appellant, as they respectively appeared before the First-tier Tribunal ('FtT'). For the avoidance of doubt, this also applies to the Anonymity Order made above, granting anonymity to the Appellant KMM (as he was before the FtT).

Background

3. The Appellant is a Jamaican citizen, who came to the UK aged 20 years old. He is now 42 years old. Following leave initially as a visitor and then a student and a spouse, the Appellant was granted Indefinite Leave to Remain ('ILR') in 2010. In the same year, he was sentenced to a 12-month suspended sentence in respect of an offence of assault occasioning actual bodily harm. In 2019, he was sentenced to 9 years' imprisonment for an offence of assault causing grievous bodily harm with intent contrary to section 18 of the Offences Against the Persons Act 1861 and to 15 months' imprisonment (concurrent) for possession/use of an offensive weapon in a public place.

4. Following these convictions and sentences in 2019, the Respondent decided to initiate deportation action against the Appellant and following the consideration of the Appellant's ensuing human rights claim based on his family life, the Respondent decided on 12th June 2023 to deport the Appellant and to refuse his human rights claim.

5. The Appellant appealed against the Respondent's refusal of his human rights claim dated 12th June 2023 and the Appellant's appeal was heard by the Judge on 18th April 2024. Before the Judge, the Appellant pursued his appeal on the grounds that there were very compelling circumstances over and above the exceptions to deportation under Article 8 ECHR so as to outweigh the substantial public interest in the Appellant's deportation ('the very compelling circumstances test').

6. The Appellant also argued that he met all three limbs of Exception 1, contained in s.117C(4) Nationality, Immigration and Asylum Act 2002 ('the 2002 Act'), namely that he was socially and culturally integrated in the UK and would face very significant obstacles to his integration in Jamaica - it being accepted by the Respondent in her decision that the Appellant had been in the UK lawfully for most of his life. The Appellant also pursued his claim under Exception 2 – s.117C(5) of the 2002 Act - maintaining that it would be unduly harsh for him and his children to be separated. The Respondent had accepted in her decision that the Appellant had a genuine and subsisting parental relationship with each of his three children and that they each were qualifying children. The Respondent also accepted that it would be unduly harsh for them to accompany the Appellant to Jamaica.

7. The Appellant was represented by Mr Karim, Counsel and the Respondent by a Presenting Officer. The Judge heard oral evidence from the Appellant, his former wife - and the mother of his children - as well as from one of his sisters. After hearing the parties' respective oral submissions, the Judge reserved his decision.

The Decision of the First-tier Tribunal Judge

8. At [11]-[18], the Judge set out and summarised the applicable legal framework consisting of s.117B-D of the 2002 Act and the leading authorities, including *Hesham Ali* [2016] UKSC 60, *Makhlouf* [2016] UKSC 59, *HA (Iraq), RA (Iraq) and AA (Nigeria)* [2022] UKSC 22 - upholding the Court of Appeal decision in the same litigation - *CI (Nigeria)* [2019] EWCA Civ 2027, [40]-[43] & [75], *AM (Somalia) v Secretary of State for the Home Department* [2019] EWCA Civ 774, *Kamara v SSHD* [2016] EWCA Civ 813, [14], *NC v Secretary of State for the Home Department* [2023] EWCA Civ 1379, *AS v SSHD* [2017] EWCA Civ 1284, [58]-[59], and *Yalcin v SSHD* [2024] EWCA Civ 74, [14(2)], [54]-[62]. The Judge confirmed at [18] that he had the seriousness of the Appellant's offending and the very strong public interest in deportation firmly in mind. He also noted that the longer the sentence, the greater is the public interest in deportation.

9. With regards to the issues that the Judge needed to determine, the Judge recorded at [9] that the Presenting Officer had accepted during the hearing that the Appellant was socially and culturally integrated in the UK – this have been disputed in the Respondent's decision previously on the basis that his integration had been broken as a result of his criminality. The Judge also recorded that this was a sensible concession.

10. The Judge's findings on the disputed issues are set out at [19]-[31] of his decision. The Judge's findings on more general matters can be summarised as follows:

(a) The evidence of the Appellant and his supporting witnesses was entirely credible – the Presenting Officer did not suggest otherwise nor did she make any submission to the effect that the evidence was not reliable. All three witnesses gave clear evidence, consistent with their respective written statements and the available documentary evidence. They readily answered questions and were plainly seeking to candidly assist the Tribunal. The Judge specifically recorded that the evidence of the Appellant's former wife, and mother to his children, was especially compelling – [20];
(b) When acknowledging that the Appellant had committed serious criminal offences, particularly those in 2019, the Judge was nevertheless satisfied that the Appellant's offending was very much the exception in what otherwise had been a law-abiding life characterised by useful relationships, with his family in particular, all settled in the UK – [21];
(c) Other factors were indicative of the Appellant not having broken his integrative links included continued contact and visits from his family in prison, a grant of 'category D status' in November 2021 and being assessed as suitable to be transferred to an open prison. The Appellant appeared to have coped well with the fact that he was not transferred to such an open prison as a result of his pending deportation, and he had integrated back into the community following his release. The latter included taking a regular active role in his daughters' upbringing, spending time with them at least every other day – [22].

11. In respect of the Appellant's claim to meet Exception 1, in so far as this was relevant to the Judge's subsequent assessment of the very compelling circumstances test, the Judge was satisfied at [25] that the Appellant would face very significant obstacles to integration on return to Jamaica. The Judge

expressly noted that the Appellant had spent a period of five months there in 2018 but apart from that, he had been absent from Jamaica since he had left as a young 19-year old. The Judge noted that his father had passed away and that his mother spent a lot of her time in the UK as a visitor, finding that the Appellant had no real ties with Jamaica anymore and that all of his "significant family members" were settled in the UK. The Judge also found that there was a likelihood of him experiencing discrimination of a "probably serious kind" as a result of his association with his sister, who had experienced hostility there because of her sexual orientation. The Judge accepted that the family home had been targeted, also recording that that account not having been disputed by the Respondent.

12. The Judge also considered at [25] that the bond between the Appellant and his children was close, especially with his daughters and most especially with his eldest daughter. The children's mother had given evidence on the profound impact that the absence of the Appellant would have on their eldest daughter in particular and the impact that this would also have on the Appellant himself. The Judge found this evidence to be compelling and in accordance with the Appellant's disclosures to a psychiatrist, who reported on the Appellant. The psychiatrist noted that the Appellant had reported that at times he felt suicidal.

13. The Judge found at [26] that this would in turn significantly impact on the Appellant's ability to re-establish his life in Jamaica. Developing this further, the Judge stated at [27] "the difficulties (the Appellant) would face in integrating back into Jamaica are especially significant (more than just very significant) due to the particular impact on him of being separated from his eldest daughter: he knows she is peculiarly dependent on him as a father, he knows the impact his absence will have (unravelling the positive progress which has been recently made, as amounts to a considerable burden on him, constituting a substantial impediment to his integration."

14. In respect of Exception 2 and whether it would be unduly harsh to expect the Appellant to return to Jamaica and remain separated from his children in the UK, the Judge was satisfied at [28] that the Appellant had demonstrated that it would be unduly harsh. This was because the Appellant had established an active involvement in their lives, seeing them far more frequently since his release from prison than previously, and maintaining a stronger bond than had previously been established ([29]). The Judge considered at [30] the evidence in respect of the Appellant's eldest daughter finding that the impact of the Appellant's removal on her would be considerable. The Judge recorded further aspects of the mother's evidence on her daughter's bond with the Appellant and found that evidence credible.

15. Importantly, the Judge considered the evidence that the Appellant's eldest daughter had previously engaged in self-harm, had previously withdrawn and had refrained from communicating and engaging with others, as a result of the Appellant being absent previously. The Judge noted that the evidence supported very real and well-founded concerns, based on the previous impact of the Appellant's absence experienced by the eldest daughter. The Judge concluded that because of the totality of the evidence concerning the Appellant's eldest daughter, the effect on her of the separation "would not just be unduly harsh but would be of a harshness above that". He found that it would be "very deleterious" given the eldest daughter's crucial developmental stage, having now

acquired some emotional stability, as well as her susceptibility to regression mentally and her dependence on the Appellant as a father.

16. Turning to the test of very compelling circumstances, the Judge found at [31] that the test was met by the Appellant, once again reminding himself of the very substantial public interest in the Appellant's deportation given his offences and sentences. The Judge brought forward at [31(i)] his findings in relation to the Appellant's children, and in particular his eldest daughter, and it being "more than" unduly harsh on her for there to be separation. The Judge expressly noted and accepted the mother's evidence that she cannot sufficiently mitigate any absence from the Appellant through her own relationship with her daughter. The Judge reiterated his finding that there were clear risks pertaining from any prospective absence of the Appellant, namely withdrawal and relapse to self-harm.

17. The Judge also factored into his assessment at [31(ii)] the Appellant's relationships and ties established with his other/extended family members and that these acted as protective factors in relation to the Appellant's vulnerability as regards his mental health. The Judge expressly found that this in itself would not amount to a very compelling factor but was nonetheless a very cogent one when combined with the other issues that the Judge identified at [31(iii) and (iv).

18. Those two other factors were also considered by the Judge to cumulatively amount to very compelling factors: the Appellant's integration into society in the UK and his difficulties in reintegrating back into Jamaica ([31(iii)]), referencing his findings on this issue in the context of considering Exception 1, and the Appellant posing - on the Judge's finding - a low risk of re-offending ([31(iv)].

19. Based on the above, the Judge allowed the Appellant's appeal on human rights grounds.

The Appeal to the Upper Tribunal

20. Permission to appeal was granted to the Respondent on all grounds pleaded. The first ground of appeal was found to have less merit but Upper Tribunal Judge Hoffman did not limit the grant of permission.

21. In the first ground, the Respondent argued that the Judge had failed to give reasons, or adequate reasons, for finding that the 'unduly harsh' test was met, in particular in respect of the Appellant's eldest daughter. It was submitted that the Judge had not established that the Appellant's deportation would be unduly harsh on any of his children and to any extent that meets the test/criteria set out within *MK (section 55 – Tribunal options)* [2015] UKUT 223 (IAC) (and subsequent case law). Namely, that their physical separation would surpass being anything more than "uncomfortable, inconvenient, undesirable or merely difficult".

22. It was further submitted that there was no objective evidence to support the claim that the Appellant's eldest daughter had self-harmed in the past. Such evidence needing to take the form of health records "or other". The Respondent added that the eldest daughter not being known to either primary or secondary mental health services (as it appeared from the evidence) was indicative of the lack of severity of any mental health issues she may be experiencing. Other written submissions were made concerning the lack of "logical sense" in a disclosure made by the eldest daughter to the Independent Social Worker ('ISW') and the lack of evidence that the eldest daughter cannot access treatment in the

UK in the Appellant's absence. I address this in more detail in my analysis section below.

23. Judge Hoffman otherwise considered that the Respondent's second and third grounds of appeal were arguable and held more merit than the first ground. Through her second ground, the Respondent argued that the Judge had erred in law when assessing 'very significant obstacles' to the Appellant's reintegration in Jamaica because he made material errors of law in finding that the Appellant had no real ties. This was because his mother continued to live in Jamaica and the Appellant himself is heterosexual, and would not therefore experience any discrimination due to his sexual orientation.

24. In her third ground of appeal, the Respondent submitted that the Judge had failed to give adequate reasons for his finding and/or made a material misdirection in law in his considerations of whether there were very compelling circumstances to the Appellant's case. The Respondent was critical of the Judge's findings on the Appellant's low risk of re-offending when there was a lack of evidence of rehabilitation and the Appellant's acceptance of his offending was belated and limited. Judge Hoffman considered that it was arguable that any such error would have tainted the Judge's findings in respect of the 'very compelling circumstances'.

25. The Appellant filed and served a comprehensive response to the grounds of appeal under Rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008 ('the Procedure Rules'), which was settled by Mr Karim of Counsel, who represented the Appellant at first instance. This response argued that the Respondent's grounds of appeal were no more than a mere disagreement with what was otherwise a careful determination. Mr Karim also relied on the well-established cases of *R (Iran)* [2005] EWCA Civ 982, *Volpi & another v Volpi* [2022] EWCA Civ 464 as well as *Ullah v Secretary of State for the Home Department* [2024] EWCA Civ 201 and *Shizad (sufficiency of reasons: set aside)* [2013] UKUT 00085 (IAC).

26. Mr Lindsley made oral submissions maintaining all three of the Respondent's grounds of appeal and Mr Plowright, on behalf of the Appellant, made further oral submissions before me maintaining the position taken in Mr Karim's Rule 24 response. I have addressed those respective submissions in the section immediately below when setting out my analysis and conclusions.

27. I reserved my decision at the conclusion of the parties' submissions.

Analysis and Conclusions

28. Mr Linsdley very fairly accepted that the Judge had made detailed positive credibility findings on each of the witnesses' evidence and that there had been no challenge to those findings in the Respondent's appeal. In respect of the Respondent's first ground of appeal therefore, in my view, it was open of the Judge to accept the evidence of the Appellant and that of his witnesses on how the Appellant, and in turn his children, would be impacted upon by the Respondent's decision. Particularly, when this was supported by three independent expert reports considered by the Judge, namely that of an ISW reporting on the Appellant's three children, a psychiatrist reporting on the Appellant (twice) and a different psychiatrist reporting on the Appellant's eldest daughter.

29. It was submitted in the written grounds that there was no objective evidence of the eldest daughter's difficulties and that there were no health records documenting the same. Further, that this was indicative of the difficulties not being as serious as claimed. Mr Lindsley submitted that there ought to have been more independent medical evidence and that the Judge had not set out what the Respondent had challenged in relation to this aspect of the Appellant's claim.

30. I do not accept that this is the case – the Judge has very clearly recorded that the Presenting Officer did not make any submission seeking to challenge the credibility of the witness evidence. The Judge had also very clearly recorded that the Respondent had continued to dispute that the Appellant met the 'unduly harsh' test in respect of his children. In circumstances in which the Judge heard detailed evidence from the Appellant and his former wife, namely both parents of the eldest daughter, and had clearly assessed the quality of their evidence, alongside that of three different experts, I consider that the Judge was entitled to find in favour of the Appellant on this issue.

31. I also consider that it is too simplistic to state that a lack of health records documenting self-harm indicates that the difficulties experienced are not as serious or severe as claimed – mental and emotional ill-health is commonly under-reported and there could be many reasons for a lack of any such referrals. I am also concerned that the author of the Respondent's grounds saw fit to submit that a disclosure made by the eldest daughter as to the reasons why she self-harmed did not "make any logical sense". The author appears from this, and other submissions made under the first ground of appeal, to be holding himself as an expert.

32. I raised this with Mr Lindsley, who acknowledged that the first ground pursued and the way in which it had been pursued in writing was not the strongest point raised by the Respondent. Mr Lindsley also confirmed that he had considered the Appellant's response at §18 of his Rule 24 response, which cross-referred to the expert evidence available to the Judge. This included the psychiatrist report of Dr Awusi, expressly recording at §10.2 of that report the eldest daughter's disclosed history of deliberate self-harm and the noting of "superficial self-harm scars on both arms". In light of the above, the Respondent is clearly wrong in submitting, in writing as part of her grounds of appeal, that there was no objective evidence to support the claim that she had self-harmed. In addition to Dr Awusi, there was also the ISW's report, in which this was explored.

33. In so far as Mr Lindsley pursued the Respondent's first ground, he submitted that it was not clear from the Judge's decision that he had in fact considered or applied the self-direction that 'unduly harsh' meant something more than "uncomfortable, inconvenient, undesirable or merely difficult". Mr Lindsley submitted that the Judge had not clearly recorded what had been challenged by the Respondent in respect of the Appellant's case on the 'unduly harsh' test.

34. As I have already addressed above, the Judge very clearly reminded himself of the applicable legal tests and the leading authorities that applied to this appeal at [11]-[18] of his decision and on the 'unduly harsh' and 'very compelling circumstances' tests at [15] and [18]. There has been no challenge before me from the Respondent as to the Judge's findings concerning the Appellant's involvement with his children, their bond together, their level of contact, the support to each other and their dependency, all set out at [28]-[29].

35. Upon finding at [30] that the relationship between the Appellant and his eldest daughter is particularly close, the Judge also accepted the mother's evidence that the Appellant's deportation would seriously affect their eldest daughter, fearing a regression into self-harm. The Judge noted her evidence to be credible, objective and balanced. The Judge ultimately concluded that a separation would therefore "not just be unduly harsh but would be of a harshness above that". He also set out the following:

> Indeed I find it would be very deleterious given the eldest daughter's crucial developmental stage (having now acquired some emotional stability), susceptibility to regression mentally and dependency on the appellant as a father.

36. It is clear from [30] that not only has the Judge considered the Appellant's and his daughter's circumstances against the 'unduly harsh' threshold, he directed himself correctly to this. He also found that their circumstances would reach an even higher level than that of undue harshness, as is plain from the Judge's findings themselves and the reasons that he has given for those, which I have summarised above at §10 and §14-15. For those reasons, the Judge has not erred in law in his assessment of the Appellant's case under Exception 2.

37. Turning to the Respondent's second ground of appeal, the Respondent has submitted that the Judge failed to give reasons, or any adequate reasons, for findings on material matters when assessing the likelihood of the Appellant experiencing very significant obstacles in reintegrating Jamaica on return. Mr Lindsley in his submissions focused on the Judge's finding at [24] that all of the Appellant's significant family members were settled in the UK when the Appellant's mother was at the time of the Judge's decision not so settled. Mr Plowright in response sought to rely on new evidence concerning the status in the UK of the Appellant's mother as she had, since the Judge's decision, been granted limited leave to enter/remain in the UK. It was not necessary for me to consider the Appellant's application under Rule 15(2A) of the Procedure Rules since I am satisfied that the Judge has given adequate reasons for his finding on this issue. It is correct that the Judge referred to the Appellant's mother at [24] but it is clear from the Judge's decision, when read as a whole, that the Judge is referring to the Appellant's other immediate family members, namely his children, as well as his extended family with his sisters. The Judge was clearly contrasting the very many relatives, including the Appellant's immediate family, present and settled in the UK vs the lack of such relatives, in such numbers, in Jamaica.

38. The other issue taken by the Respondent in respect of the Judge's assessment of the very significant obstacles test is his finding that the Appellant would be subjected to discriminatory treatment on return as a result of his association with his sister, who had been previously ill-treated because of her sexuality. I first remind myself that the Judge heard detailed evidence from the Appellant and his sister on this issue. He referred to the family home being targeted previously at [24] and the Respondent has not placed any challenge before me going to this aspect of the Appellant's case other than the fact that the Appellant himself is heterosexual. This does not address the issue of association and I am thus satisfied that the Judge has given sufficient and adequate reasons for his findings.

39. This ground also fails to note that there were several other reasons for the Judge to find that there would be very significant obstacles to integration for the

Appellant on return, including the impact on him and on his mental health of being separated from his children ([25]-[27]). All of these factors, when considered cumulatively in particular, are capable of amounting to very significant obstacles and the Judge has set out his reasons for this accordingly. I am satisfied that in reality, the Respondent's challenge in her second ground of appeal is one that asserts irrationality and the Respondent has not provided any submissions to demonstrate that the Judge's findings are perverse and/or unsupported in the evidence before him.

40. The same is to be said in respect of the Respondent's third ground of appeal: that the Judge failed to give reasons, or any adequate reasons, for findings on material matters, and/or that he misdirected himself, when assessing whether or not there were very compelling circumstances capable of outweighing the significant public interest in ensuring the Appellant's deportation from the UK. I have already recorded above the many instances of the Judge reminding himself that the public interest in the Appellant's deportation from the UK was very significant in light of the seriousness of his criminal convictions and the length of his imprisonment sentence.

41. From my analysis of the Respondent's two first grounds of appeal, any strength remaining in the Appellant's third ground of appeal is in my view considerably lessened. The Respondent has submitted that the Judge has failed to identify any circumstances that would meet this very stringent threshold. I am satisfied that this is also incorrect. The Judge had already identified in his findings in relation to the Appellant's eldest daughter that the impact upon her of any separation from her father would cause a level of harshness that was more than 'unduly harsh' ([30]). In respect of the Appellant meeting the threshold contained in Exception 1, the Judge found that the burden on the Appellant of any knowledge of how negatively his deportation would impact his eldest daughter amounted to a "substantial impediment to his integration" ([27]). In addition, the Judge listed several other factors at [31], including the Appellant's relationships with all of his (qualifying) children in the UK, his relationships with other wider family members in the UK, the support that they provide to the Appellant in coping with his emotional and mental health, the length of his residence and the progress made by the Appellant in respect of his rehabilitation since being sentenced to imprisonment.

42. I am satisfied that the Respondent is merely seeking to reargue her case when focusing on the Appellant's late admission of guilt at §3(c) of her grounds. The Judge had very clearly noted the Appellant admitting guilt in his criminal offending very late in the proceedings and only before the Judge within the proceedings in the FtT. This in itself however is not sufficient to automatically displace the Judge's other findings in relation to the Appellant as a witness and the credibility of his evidence before him. The latter not having been challenged before me by the Respondent.

43. With regards to there being no evidence of rehabilitation placed before the Judge concerning this Appellant, as submitted at §3(d) of the Respondent's grounds of appeal, and as focused on by Mr Lindsley before me, I consider that these submissions are also merely seeking to reargue the Respondent's case in support of the decision to deport the Appellant from the UK. All of the reasons that the Judge has given in support of his findings that the Appellant posed a low risk of reoffending were open to him on the evidence before him and were clearly set out at [31(iv)] of his decision, as I have summarised above. In any event, as I

have already addressed above, it is clear from the Judge's findings that this was not the only finding that supported the Judge's conclusion that there were very compelling circumstances and I consider that the weight to be attached to this issue was a matter for the Judge himself.

44. Whilst the Appellant's criminal conviction is a very serious one, this was acknowledged by the Judge on numerous occasions in his decision, as I have already addressed. The Respondent's third ground of appeal is again in reality a rationality challenge and one that she has not been able to substantiate. Taking all of the Judge's findings together, these are clearly capable of supporting a finding that the Appellant has demonstrated very compelling circumstances outweighing the Respondent's public interest in deporting him.

45. I also remind myself of the guidance from Green LJ in the Court of Appeal in *Ullah* at [26], which provided as follows and which has application to each of the grounds pursued by the Respondent:

> Sections 11 and 12 TCEA 2007 Act restricts the UT's jurisdiction to errors of law. It is settled that:
> (i) the FTT is a specialist fact-finding tribunal. The UT should not rush to find an error of law simply because it might have reached a different conclusion on the facts or expressed themselves differently: see *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49 [2008] 1 AC 678 at paragraph [30];
> (ii) where a relevant point was not expressly mentioned by the FTT, the UT should be slow to infer that it had not been taken into account: e.g. *MA (Somalia) v Secretary of State for the Home Department* [2010] UKSC 49 at paragraph [45];
> (iii) when it comes to the reasons given by the FTT, the UT should exercise judicial restraint and not assume that the FTT misdirected itself just because not every step in its reasoning was fully set out: see *R (Jones) v First Tier Tribunal and Criminal Injuries Compensation Authority* [2013] UKSC 19 at paragraph [25];
> (iv) the issues for decision and the basis upon which the FTT reaches its decision on those issues may be set out directly or by inference: see *UT (Sri Lanka) v The Secretary of State for the Home Department* [2019] EWCA Civ 1095 at paragraph [27];
> (v) judges sitting in the FTT are to be taken to be aware of the relevant authorities and to be seeking to apply them. There is no need for them to be referred to specifically, unless it was clear from their language that they had failed to do so: see *AA (Nigeria) v Secretary of State for the Home Department* [2020] EWCA Civ 1296 at paragraph [34];
> (vi) it is of the nature of assessment that different tribunals, without illegality or irrationality, may reach different conclusions on the same case. The mere fact that one tribunal has reached what might appear to be an unusually generous view of the facts does not mean that it has made an error of law: see *MM (Lebanon) v Secretary of State for the Home Department* [2017] UKSC 10 at paragraph [107].

46. It is also well established that the reasons given by a judge for conclusions made on an appeal need not be extensive - *Shizad (sufficiency of reasons: set aside)*.

47. Lastly, Mr Lindsley submitted that the Judge's use of language in describing the Appellant's offences as "blips" in an otherwise law-abiding life undermined the seriousness of the offending. Mr Lindsley submitted that this indicated that the

Judge had failed to consider the full weight that should have been given to the public interest in deporting the Appellant. Had this very significant weight been fully considered, the Judge would not have used such language.

48. Whilst the use of the term 'blip' might not be the preferred term of the Respondent or indeed of many other judges, I do not consider that this is an indication that the Judge did not have at the forefront of his mind the seriousness of the Appellant's offending and the very significant public interest weighing in favour of the Respondent. Both of these issues were the subject of several self-directions and self-reminders set by the Judge and recorded at different instances of his decision. These were not limited to the section of the Judge's decision where he has summarised the applicable legal framework but were instead woven at appropriate and relevant junctions in his decision.

49. It is also correct to note that the Appellant's previous criminal offence to the index offences were from 2010 and were of less severity. The Judge also extracted the sentencing judge's remarks for the Appellant's index offences. These included the following assessments:

> (…) save for one matter of a lesser form of violence in 2010, you have not come before the courts for any other reason. You are 37 years of age, you have lived in the United Kingdom for 17 years, you have worked hard and you have been liked and well respected by those who have worked with you. The evidence of (x), notwithstanding that she attended as a prosecution witness, clearly showed that you had the respect of your colleagues and they had your respect as well.

50. In the context of this particular appeal and Appellant, I am satisfied therefore that the Judge was characterising the lack of repeated offending in the Appellant's criminal history when he described the offences as "blips in an otherwise law-abiding life". It is clear from the Judge's decision as a whole that he has not sought to undermine in anyway the severity of the Appellant's offending nor the significance of the public interest in otherwise ensuring the Appellant's deportation from the UK as a result of his most recent offences.

51. In addition to the authorities I have referred to above, I also reminded myself that the Judge's decision should be respected unless it is quite clear that they have misdirected themselves in law. Appellate courts should not rush to find such misdirection simply because they might have reached a different conclusion on the facts or expressed themselves differently: **AH (Sudan) v Secretary of State for the Home Department** [2007] UKHL 49; [2008] 1 AC 678, at [30].

52. It follows therefore that I am satisfied that the Judge has set out sufficient reasons for finding that the very compelling circumstances over and above the exceptions to deportation was met by the Appellant. Those findings were ground in and justified by the evidence before him. The Judge's decision does not disclose any errors of law.

53. In the circumstances, I dismiss the Respondent Secretary of State's appeal and order that the decision of the Judge shall stand.

Notice of Decision

54. The Respondent Secretary of State's appeal is dismissed. The Judge's decision to allow the Appellant's human rights appeal stands.

Sarah Pinder

Judge of the Upper Tribunal
Immigration and Asylum Chamber

29.11.2024