IAC-FH-NL-V1

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: DA/01111/2013

THE IMMIGRATION ACTS

Heard at Royal Courts of Justice	**Decision & Reasons Promulgated**
On 5 January 2015	**On 23 January 2015**
Prepared on 6 January 2015	

Before

UPPER TRIBUNAL JUDGE MCGEACHY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MUSTAFA ERYIGIT

Respondent

Representation:
For the Appellant: Mr I Jarvis, Senior Home Office Presenting Officer
For the Respondent: In person

DETERMINATION

1. The Secretary of State appeals, with permission, against a decision of the First-tier Tribunal, (C H Bennett and Mrs A J F Crosse De Chavannes) who in a determination promulgated on 29 May 2014 allowed the appeal of Mustafa Eryigit against a deportation order made on 23 May 2014, the notice of decision of that order indicating that the Secretary of State considered that Section 32(5) of the UK Borders Act 2007 applied to him.

2. Although the Secretary of State is the appellant before me I will for ease of reference refer to her as the respondent as she was the respondent in the First-tier; similarly although Mustafa Eryigit is the respondent before me I will refer to him as the appellant.

3. The appellant is a citizen of Turkey born on 10 February 1942, who came to Britain in 1969 and was granted indefinite leave to remain in 1976. He and his wife, who had entered Britain either with him or shortly thereafter have two children, A daughter who was born in Turkey in 1965 and a son who was born here in September 1977. The appellant's wife is British but the appellant has been estranged from her for many years.

4. It appears that for some considerable time the appellant had a shop here. Since 1988, however, he has committed a number of crimes, for which he received either short periods of imprisonment or fines. These included driving without insurance, possession of offensive weapons, criminal damage and disorderly conduct: in total up to October 2010 he had been sentenced for nine offences. Details of those offences are set out in paragraph 6 of the First-tier Tribunal's determination.

5. The index offences which led to the decision to deport included sexual assaults on two women and a further assault on one of those women, assaults on two further women and criminal damage. For those offences the appellant was sentenced by HH Judge Jacqueline Beech on 29 September 2011 to a total of four years and two months' imprisonment. The judge's sentencing remarks are set out in paragraphs 3 to 6 of the determination of the First-tier Tribunal.

6. In their determination the Tribunal referred to the terms of Section 32 of the UK Borders Act and to paragraphs 398 and 399 of the Rules and noted that, as the appellant had been sentenced to a total of four years and two months' imprisonment, the Secretary of State was required to make the deportation order unless the appellant's removal would involve the United Kingdom being in breach of its obligations under the Refugee Convention or the ECHR. They noted that there were no submissions made to them that the appellant's removal would be in breach either of his rights under the Refugee Convention or Article 3 of the ECHR.

7. They referred to the judgments of the Court of Appeal in **MF (Nigeria) [2013] EWCA Civ 1192** and **OH (Serbia) [2008] EWCA Civ 694** which referred to the guidance given in the judgment in **N (Kenya) [2004] EWCA Civ 1094**. They referred to the terms paragraph of 398 of the Rules and set out paragraph 33 of the judgment of Sales J in **R (Nagre) [2013] EWHC 720 (Admin)**.

8. In paragraph 22 the Tribunal noted that in deciding whether there were "very compelling reasons" outweighing the public interest in deportation they were not entitled to undertake "a freewheeling Article 8 analysis unencumbered by the Rules". In particular they noted that Article 8 was not a "general dispensing power".

9. The Tribunal referred to the NOMS 1 report dated 18 December 2012 and the OASys Assessment dated 4 July 2013 and noted that the appellant had denied that he had committed the offences, had asserted that the claims made by the victims of the assaults were "petty" and that they had wished to "cause trouble". The appellant had explained that he had carried knives because he was afraid of "the Africans" and said that he had previously been the victim of robberies and that he had drunk substantial quantities of alcohol before he committed the later offences. It was said that the appellant and his wife had divorced in 1985 and the appellant alleged that his wife had sold his business and taken much of the proceeds. The writer of the NOMS report considered that the appellant "has had little structured activity and his emotional wellbeing has subsequently declined".

10. The writer of the report had also said that the appellant's first language was Turkish and that he spoke and understood very little English and that he had limited contact with his children. The Tribunal noted that the respondent's solicitor had asserted that the appellant appeared not to be able to understand what was said to him and referred to him as lacking personal hygiene. They had also before them medical notes from HMP Maidstone dated from April 2011 to July 2013 which recorded that the appellant had no history of mental illness but that the appellant appeared to be confused, had medication which was "all over the cell" and that there was inappropriate behaviour noted towards female staff. The appellant appeared to be not only "unkempt and dishevelled" but also to be "confused and chaotic". Although no psychotic features had been observed he had exhibited "some deficits in memory but not gross". The impression of the writer of the report had been "?? Organic dementia secondary to alcohol?? Pseudo-dementia/depression". It was stated that the appellant understood that he had a drink problem and had had that for some considerable time. The nurse manager at Maidstone Prison had stated that the appellant had developed a degree of cognitive impairment that was having an impact on his everyday life.

11. The Tribunal took account of a letter from a consultant forensic psychiatrist which stated that the appellant had been referred to the mental health in-reach team at Maidstone because of concerns about his memory and stated that the appellant had difficulty in learning new information such as the town the prison was located in, and difficulty recalling information. It appears that the appellant had a "buddy" in the prison to help him with collecting meals, cleaning and kit changing.

12. In paragraph 29 the Tribunal set out details of a letter from the appellant's daughter and then set out the evidence of the appellant.

13. They noted that the appellant could not succeed under the Rules. They set out their findings of fact in paragraph 35 and 36 of the determination as follows:-

> "35. We are satisfied that Mr E has lived continuously in the United Kingdom since, at least, September 1971. The Secretary of State accepted in the letter dated 22 May 2013 that he had lived in the United Kingdom for 36 years and 7 months

excluding the time spent in prison. In the light of Mr E's age, there is nothing inherently improbable or contrary to known fact in his evidence that his parents are both dead. We accept that part of his evidence. But we are not satisfied he had *no ties* (including social, cultural or family) *with Turkey*. We reach that conclusion for the following reasons:

(a) Mr E is a Turkish speaker. His English is, at best, poor.

(b) We are satisfied that whilst in the United Kingdom , Mr E had, as indicated by Judge Beech in her sentencing remarks, 'lived in a Turkish community' – which is, we have little doubt, at least a substantial reason why he has not become a proficient English speaker. All of those who signed the letters to which we have referred above (paragraph 32) have Turkish names.

(c) We take into account Mr E's evidence that his last visit to Turkey was c.10 years ago (we make a positive finding that it was as long ago as that). We have no reason to doubt, and accept that he has visited Turkey on at least c.10 occasions since his arrival in the United Kingdom. We are not satisfied that he has no brothers, sister or other remoter relatives living in Turkey – or that he has no friends there.

In these circumstances, we are not satisfied that paragraph 399A applies.

36. Although we have no neurologist's report and only the 2 letters from Dr Sarah Maginn (Consultant Forensic Psychiatrist) to which we have referred above, and therefore no formal report from a consultant psychiatrist or geriatrician, we are satisfied that Mr E suffers from cognitive and mental impairments and is not able adequately to provide and care for himself without assistance. We reach that conclusion for the following reasons.

(a) In her letter of 8 January 2012, Dr Maginn stated that Mr E exhibited cognitive impairment. She further stated that he required

> 'ongoing support and in the community would need support due to the level of disorientation and difficulty of learning new information as well as current needs for prompting with self-care'.

We have no reason to doubt, and accept that she stated. That accords with the other evidence to which we refer below and our observations.

(b) It is apparent from Memorandum (24 January 2014) from John Millar to which we have referred above (paragraph 27(e)) and Mr TG's letter (see paragraph 28) that Mr E was not able to cope on his own and that it had been necessary for a 'buddy' to be appointed to assist him. We have no reason to doubt, and accept what Mr Millar and Mr TG wrote. Neither of them had any motive to misrepresent. Mr Millar was and is a public servant having public duties to perform. Mr TG, though a serving prisoner, was, we are satisfied, in a position of trust and responsibility in the prison. The length and content of his letter demonstrate that he has taken a substantial interest in Mr E and has taken substantial care in writing his letter.

(c) Mr Bicker's letter (30 August 2013) to which we have referred in paragraph 27(b) indicates that the consultant psychiatrist concluded that Mr E lacked capacity in 'understanding and decision making'.

(d) The medical notes (paragraph 27(a)) record that Mr E had a history of alcohol abuse for c.40 years and that he was thought to be suffering from organic dementia secondary to alcohol pseudodementia and/or depression. We have taken into account the question marks in the notes as well as Dr Maginn's indication (8 January 2014) that the MRI san of Mr E's brain was apparently normal for his age – and Mr Bicker's letter (3 October 2013) that 'all other tests have returned a normal result'. Dr Maginn's opinion was given in the light of the fact that the MRI scan was normal and, we have no doubt, that the other tests had given the result stated by Mr Bicker.

(e) We have no reason to doubt, and accept, the content of Mr Yilmaz' statement (paragraph 26). What he wrote accords with the other evidence to which we have referred – and is consistent with the conclusion which we have set out above. He had no obvious motive to misrepresent his observations.

(f) Our own observation of Mr E and the difficulties to which we have referred above in obtaining principal evidence from him supports our above conclusion. We are well aware that false evidence and exaggeration are regrettably common in deportation and immigration appeals. But even bearing that in mind, we are satisfied that Mr E's inability to give answers which were truly related to the questions which he had been asked, his refusal to answer questions from his counsel and his apparent lack of understanding of the reason for the hearing are genuine and indicated a lack of capacity and mental impairment.

(g) It was striking that, in the course of her sentencing remarks, Judge Beech had to break off and instruct Mr E to stop talking whilst she was sentencing him (see page 5 of the transcript). Talking by the individual concerned during the sentencing process is itself an indication of mental impairment and of a lack of understanding of what was happening. There is an obvious and inherent improbability in the proposition, and we are not satisfied, that that was a piece of play acting.

(h) Crucially, the offences which Mr E committed, and particularly that which he committed against Miss K, where there was no suggestion that alcohol was a cause, and what Mr E did, particularly when taken in conjunction with Mr E's age at the time when he committed the offences (68 in November 2010 when the offence against Miss K was committed and 69 when the other offences were committed) indicate an impairment of Mr M's mental faculties as the cause. He was, quite plainly, no callow youth who had not attained a state of mental maturity. His behaviour was so abnormal, particularly for a man of his age, that the only realistic conclusions are, and we conclude, that

(1) Mr E was and is suffering from a mental impairment,

(2) his mental control mechanisms had been impaired by alcohol abuse over a substantial period of time and/or by other unidentified factors (whether

earlier than normal age related degeneration or otherwise, we do not know and the precise cause does not matter), and

(3) the mental impairment from which he was suffering at the time when he committed the offences was a substantial, if not the sole, cause of his behaving as he did (including drinking to excess on 29 March 2011).

All that is confirmed by the other evidence to which we have referred above.

(j) Although we have in mind that Mr Bicker's letter of 3 October 2013 contained the second extract we have set out in paragraph 27(c), which suggests that, *in general*, Mr E was able to cope and that it was *only occasionally* that he required assistance,

(1) we prefer what Mr Millar and Mr TG stated (paragraphs 27(e) and 28(d) and (e)) – what they stated being unqualified, they being better placed to observe what was and was not happening than Mr Bicker, and, crucially, we can see no reason why a 'buddy' should have been thought necessary or have been appointed if there had been only *occasional* instances of forgetfulness, and

(2) even occasional failures to collect food and attend to personal hygiene cannot but be a matter of significant concern and an indication of mental impairment."

14. He went on to state that they were unwilling to place substantial weight on the statement from the appellant's daughter as she had not attended the hearing and they were not willing to make an assumption that the appellant's son could give or would give him assistance. They went on to say:-

"40. We have very much in mind that

(a) Mr E's behaviour on 12 November 2010 and 29 March was truly dreadful and cannot but have caused substantial distress to his victims (and particularly to both Miss K and Miss T) and that Miss T was continuing to experience symptoms in September 2011,

(b) Mr E has the wretched and shameful history of offending which we have set out in paragraph 6,

(c) Judge Beech concluded, and we respectively agree with her conclusion, that he was a dangerous offender, that there was a significant risk of his causing serious harm to other women in future and all his offences of violence had been directed at women.

We do not accept that the risk of Mr E's being reconvicted is, as the NOMS report indicates, properly categorised as 'low'. Even on the basis of the percentages given by reference to the OGRS and OGP scales, 'low' seems to us (even though this may be the category given by those scales) to be divorced from reality. Although we were provided with a certificate issued by the NOMS on 13 March 2013 indicating that Mr E had completed one session on alcohol awareness, we were not provided with any report of satisfactory progress, let alone completion of a course designed to ensure that he remains free of alcohol for the future. We have in mind also, and accept, that Mr E's poor English and denial of the sexual

> offences had prevented any useful steps being taken to reduce the risk of his committing sexual offences in future. We conclude that the more realistic assessment of risk, and that which we accept, is that given (in the NOMS report) by reference to the 'Risk Matrix 2000', i.e.
>
> 'Medium risk of sexual assault and violence but Final Risk Group is High'."

15. However, in paragraph 41 the Tribunal stated that "in the particular circumstances of this case there were 'very compelling reasons' and therefore 'exceptional circumstances' outweighing the public interest in deportation." They gave their reasons in subparagraphs 41(a), (b), (c), (d), (e) and (f) of the determination.

16. They concluded therefore that the removal of the appellant would involve a breach of the United Kingdom's obligations under Article 8 of the ECHR. Therefore Exception 1 in Section 33 of the 2007 Act would apply and from that it followed that Section 32(5) of the 2007 Act did not apply and the decision was therefore neither correct nor in accordance with the Law and Immigration Rules. They therefore allowed the appeal.

17. The Secretary of State appealed, arguing that the Tribunal had been wrong to find that there were exceptional circumstances in light of the appellant's age and length of time spent in Britain and they were wrong to consider that it would be unjustifiably harsh to deport the appellant to Turkey. They pointed out that there was no report from a consultant psychologist, neurologist or geriatrician as found by the Tribunal in paragraph 27 and that the findings of the Tribunal that the appellant was suffering from mental impairment which contributed to his offending was based on medical notes from the prison which reached no definitive conclusion or diagnosis. The evidence itself on which the decision was based did not point towards the appellant having an impairment. Moreover, the grounds argued that the conclusions drawn by the Tribunal in paragraph 36(h) that the appellant's mental impairment was the sole cause of his behaving as he did was not based on any evidence and that the Tribunal had been wrong to place weight on the length of time the appellant had spent in Britain and had again placed undue weight on the fact the appellant was receiving a pension here. The grounds also argued that the Tribunal, having found that the appellant had a "wretched and shameful history of offending" and there was a serious risk of him re-offending and causing harm to other women in the future should have found that the deportation of the appellant was clearly in the public interest. The grounds referred to the decision of the Court of Appeal in **SS (Nigeria) [2013] EWCA Civ 550** and argued that, given that the appellant did not qualify under the Rules, his circumstances should not have been found to outweigh the public interest in his deportation.

18. On those grounds permission was granted on 4 August.

19. The appeal was then listed for hearing before the Upper Tribunal. On the first occasion the appellant was brought from detention but was unrepresented. There was no interpreter and therefore the appeal had to be adjourned.

20. The appellant had no representation at the adjourned hearing before me but there was an interpreter. The appellant stated that he did not wish to employ a representative because he could not afford to do so. There was no indication that should the appeal be adjourned further the appellant would obtain representation. In these circumstances I did not consider it appropriate to adjourn the appeal further: the appellant could not be compelled to employ a representative nor indeed could any representative be compelled to appear on his behalf. There was, of course, no application for an adjournment.

21. I therefore decided to go ahead with the hearing. The appellant informed me that he had seen the determination of the First-tier tribunal but I handed to him a copy of the grounds of appeal to which he could refer. I then as carefully as possible summarised the issues in the case for him, focusing on the fact that the First-tier Tribunal had considered that the issues in this appeal turned on whether or not there were exceptional circumstances which would mean that the appellant should not be deported and explaining their reasons for reaching their conclusion that such circumstances existed.

22. I then asked Mr Jarvis, on behalf of the Secretary of State, to make submissions. I am satisfied that in essence those submissions were properly translated for the appellant.

23. In his submissions Mr Jarvis amplified the grounds of appeal, referring first to the terms of paragraph 36(h)(3) of the determination stating that the Tribunal had gone beyond the grounds of their expertise and reached conclusions which were not open to them. He went on to state that evidence from the hospital was minimal and did not support the conclusions of the Tribunal: there was no expert opinion on which they would have been able to rely to reach the conclusions which they had. He pointed out that mental impairment was not a feature of the sentencing judge's remarks. Moreover there was simply nothing to suggest that mental impairment had led the appellant to commit the sexual offences – on that the Tribunal had reached conclusions which were simply not open to them and were going behind the judgment in the criminal court. Moreover the bare assertion that the appellant, at his age, would not have committed sexual offences unless he had been mentally impaired was without any foundation.

24. He emphasised the importance of deterrence and stated that the terms of Section 32 were clear.

25. With regard to the appellant's private life the Tribunal had erred in their consideration of the judgment in **RU (Bangladesh) [2011] EWCA Civ 651** which had emphasised the importance of the public interest and the public good in deportation. In that judgment it had been stated that:-

> "That element of 'public interest' or 'public good' is a part of the legislative policy, declared by Parliament in Section 32(4) of the UKBA, that the deportation of 'foreign criminals' is conducive to the public good."

26. He went on to state that there was nothing to indicate that the appellant could be considered to be a "home-grown" criminal – that had been defined in the judgment in **Üner v the Netherlands [2006] ECHR 873.** Moreover, the Tribunal had erred in that they had not taken into account the case law relating to "medical cases" and the high threshold that had to be met. He stated there was nothing to back up the Tribunal's assessment of the difficulties which the appellant would face in Turkey.

27. At the end of Mr Jarvis's submissions I summarised, in turn, each of the points raised by Mr Jarvis as simply as possible and asked for the appellant for his comments.

28. I asked him why he had committed the offences and whether or not he thought it was because of any mental impairment. He said that there was no evidence whatsoever that he was mentally impaired. His lawyer had advised him to plead guilty to the offences and so he did so. He had been advised that should he have claimed that he was mentally ill he would have been given an indeterminate sentence and therefore he did not raise that but in any event the reason why he committed the sexual offences while in hospital was that he had been with three women who were jealous of each other and were angry with him when he was discharged. He also said that he had been depressed and had been all alone at home where he had nothing to eat and had turned to drinking and smoking. He asserted that one of the women had been stalking him.

29. He emphasised that he had a problem with drink and depression.

30. I asked him what life would be like for him in Turkey and he said that as alcohol was forbidden there and he would therefore stay quiet. His home area was religious where people had to pray five times a day. I then asked him if he considered that he would be better off in Turkey. His reply was that he did not know anything about Turkey now, he did not even know the conversion rate. He went on to say that he had not cared about trying to obtain a British passport. He added that although he had not travelled to Turkey after he had arrived for about eight years he had travelled to Turkey thereafter from time to time, on holiday although he had not been there for fifteen years. Even when he had gone to Turkey he had always stayed in a hotel rather than at his brother's house. He said that his home area was near Antalya and he referred to a town where he had had a bank account but somehow he considered that that money had disappeared. He then went on to refer to his various bank accounts in Britain, stating that his family here had merely wished to take his assets.

31. I asked him that if I found any error in the determination whether or not he would wish to address me further or would wish me to re-determine the appeal. He stated that he would not wish to make any further submissions but would leave it to me to reach a decision.

Discussion

32. The First-tier Tribunal set out the evidence and indeed set out the relevant law correctly. I would add that I consider that their conclusion in paragraph 35 that paragraph 399A did not apply because it could not be said that the appellant had no ties to Turkey was correct. Indeed, I consider that their findings of fact in paragraph 35 were fully open to them. However, I consider that there are material errors of law in the determination of the Tribunal. However, I consider that the conclusions of the Tribunal in paragraph 36, particularly at subparagraph (h) were simply not open to them on the evidence. In particular they had simply no evidence whatsoever on which to base their conclusions that the mental impairment from which the appellant might suffer was a substantial cause of his behaving as he had – there is no evidence to indicate that men of the appellant's age who have no mental impairment do not commit crimes of a sexual nature. In her sentencing remarks Judge Beech gave no indication that there were any mitigating factors which were relevant: she did not state that the appellant's mental condition was a factor in his offending.

33. I would add that the assertions of the Tribunal in paragraph 41(a) where they did not accept that the appellant was "in the category which Parliament had in mind in enacting Section 32 of the 2007 Act" and that "right minded, informed and sensible members of the public" would not consider him to be in a category which the Court of Appeal… had in mind when considering "the need to deter foreign nationals from committing serious crimes"" was without any basis, particularly when considering what Parliament had in mind when enacting Section 32 of the 2007 Act and taking into account the intention of Parliament when paragraphs 398 and 399 of the Immigration Rules were drafted. As is stated in the judgment in **MF (Nigeria) [2013] EWCA Civ 1192.**the reality is that those Rules reflect the wishes of Parliament and are a comprehensive code. The appellant committed, as the Tribunal accepted, crimes which caused substantial distress to his victims and one of them was continuing to experience symptoms in September 2011. The Tribunal also accepted the appellant had a wretched and shameful history of offending. Moreover the appellant is, as the Tribunal accepted and Judge Beech had concluded, a dangerous offender and there was a significant risk of his causing serious harm to other women in the future – all his offences of violence having been directed towards women. There is simply nothing to indicate that Parliament would not have had in mind the need to a deport foreign criminal such as the appellant.

34. I would add that I simply do not consider that this appellant could be thought to be a "home grown" offender. A "home grown" offender is one who has been brought up in Britain and has known no other culture. That is simply not the case here where the appellant was aged 29 when he arrived in Britain. It is mere speculation to suggest that the appellant's criminality was a consequence of something which had happened in Britain and there is certainly nothing for which the British state could be considered responsible which would have led to such unpleasant behaviour.

35. These factors, together with the conclusion that the appellant has shown no understanding of his crimes nor of their affect on the victims and taking into account that I consider that the Tribunal were correct to consider that the risk of the appellant being re-convicted was not properly categorised as "low", means that I cannot see how the Tribunal could consider that the removal of the appellant would be a disproportionate interference with his rights under Article 8 of the ECHR and that there were "exceptional circumstances" which outweighed the public interest in the deportation of the appellant. I can only conclude the Tribunal erred in not placing appropriate weight on the deportation of those such as this appellant who commit serious crimes of a sexual nature. For these reasons I find that there are material errors of law in the determination and I set aside the decision of the First-tier Tribunal.

36. The appellant stated that if I set the decision aside he was agreeable to my going on to remake the decision. He had no further submissions to make.

37. The reality is that I do not consider that there are any exceptional factors which would mean that this appellant should not be deported.

38. I take into account the fact that the appellant does not meet the requirements of the rules. I place weight on the serious nature of the appellant's offending, his lack of remorse and the fact that he offended over a very long period of time. I take into account that the assessment of the First-tier tribunal with which I agree is that he was not at a low risk of re-offending and that it is accepted that he is a serious danger to the public and in particular to women here. I consider that it is in the public interest that a dangerous offender such as the appellant should be removed.

39. I agree with the Tribunal that the appellant still has ties with Turkey and that he has no family life with his children but I accept that the appellant has some, albeit weak, private life here give that he has lived here for 40 years. I also accept that there is little for him in Turkey although I agree with the Tribunal that it cannot be said that he has no ties with that country given that his first language is Turkish, he has some relatives there and he visited Turkey from time to time after settling in Britain. Moreover, I conclude, taking into account that the appellant's daughter said that she would provide some support for the appellant here, that that does not preclude her giving some support on return to Turkey – for example setting up a carer for the appellant. The appellant would, of course, retain his British pension and so would have the wherewithal to support himself in Turkey. I accept that the appellant would have difficulties in Turkey but there is simply no evidence to suggest that he would not have any support from the Turkish state let alone that his returning to a country where he speaks the language, and to an environment which he understands – it is accepted that he has always lived in the Turkish community here would be a combination of factors which would mean that his removal to Turkey would be unduly harsh. Indeed given that he has made it clear that it would be very much more difficult for him to get drunk in Turkey it is arguable that his removal would be beneficial.

40. I accept that there are compassionate factors in this case given that life in Turkey would be difficult for the appellant but it is highly relevant to place weight on the rights of the appellant's potential victims not to suffer harassment.

41. I conclude that the deportation of the appellant would be a proportionate interference with his rights to private life: there are no "exceptional "factors which would mean that his removal would be disproportionate.

42. I therefore, having set aside the decision of the First-tier Tribunal re-make the decision and dismiss this appeal on both immigration and human rights grounds.

Decision.
This appeal is dismissed on immigration grounds.
This appeal is dismissed on human rights grounds.

Signed Date **6 January 2015**

Upper Tribunal Judge McGeachy