



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: PA/05980/2019 (P)**

**THE IMMIGRATION ACTS**

**Decided under rule 34  
On 5 June 2020**

**Decision & Reasons Promulgated  
On 19 June 2020**

**Before**

**UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

**BB  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Unrepresented

For the Respondent: M. Diwnycz, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. On 29 April 2020 Directions were sent to the parties giving my provisional view that because of the present need to take precautions against the spread of Covid-19 the appeal should be adjourned until such time as a hearing in person could practically take place. The parties were invited to express a view on this.
2. On 11 May the appellant notified the Tribunal that her preference was for a decision to be made without a hearing.

3. On 21 May 2020 the respondent submitted a brief skeleton argument in which she accepted that the judge materially erred. In the light of this concession, I have proceeded to make a decision without a hearing.
4. The appellant is appealing against the decision of Judge of the First-tier Tribunal Safer (“the judge”) promulgated on 29 November 2019 dismissing her protection and human rights claim.
5. Permission to appeal was granted on the basis that it was arguable that the judge failed to conduct an adequate assessment of the best interests of the appellant’s children and failed to deal with her potential suicide risk.
6. As noted above, on 21 May 2020 the respondent submitted a brief skeleton argument in which she accepted that the judge materially erred. The respondent did not specify the error or errors that she accepted were contained within the decision.
7. In the light of the respondent’s broad concession, I set aside the decision, with no finding preserved, on the basis that both parties are in agreement that the decision of the First-tier Tribunal involved the making of an error on a point of law and that the error was material to the outcome.
8. The remaking of the decision will require, in particular, careful consideration of the position of the appellant’s children (the eldest of whom has now been in the UK for over 7 years) as well as the appellant’s mental health. Having regard to the nature and extent of judicial fact finding that will be necessary for the decision to be remade, I have decided, having regard to paragraph 7.2 of the Senior President’s Practice Statement, that the appeal will be remitted to the First-tier Tribunal to be considered afresh.

### **Decision**

9. The respondent conceded that the decision of the First-tier Tribunal involved the making of a material error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be heard afresh by a different judge.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

10. Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Daniel Sheridan  
Upper Tribunal Judge Sheridan

Dated: 5 June 2020

### **NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email