



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: HU/09937/2018 (V)

THE IMMIGRATION ACTS

**Case Management Hearing
Heard at Cardiff Civil Justice
Centre
Remotely by Microsoft Teams
On 10 June 2021**

Decision & Reasons Promulgated

On 24 June 2021

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**RRA
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr A Tan, Senior Home Office Presenting Officer
For the Respondent: Ms L King instructed by Qualified Legal Solicitors

DECISION AND DIRECTIONS

1. In a decision sent on 26 June 2019, the Upper Tribunal set aside the decision of the First-tier Tribunal (Judge Solly) which had allowed the claimant's appeal on human rights grounds (Art 8) following a decision to deport him as a foreign national criminal. The appeal was adjourned and directed that the appeal be re-listed to be re-made in the Upper Tribunal after 1 October 2019, that date was in order to allow the claimant's representatives to obtain further evidence.

2. The appeal was relisted on 13 February 2020 but was adjourned at the request of the claimant's (then) recently instructed new solicitors. A relisted hearing date of 7 April 2020 was vacated in the light of the lockdown during to Covid-19. The hearing was relisted on 18 March 2021 but was adjourned as the claimant (who was then not legally represented) had not been sent notice of the hearing at his current address.
3. A Case Management Hearing was listed on 10 June 2021 and held remotely by Microsoft Teams. The claimant had instructed new solicitors and was represented by Ms Lucy King of counsel and the Secretary of State was represented by Mr Alain Tan, Senior Home Office Presenting Officer.
4. At the CMH both representatives agreed that given the period of time that had elapsed since Judge Solly heard the evidence (and indeed the error of law hearing before me) there was a need for a fresh evidential hearing to determine the current circumstances of the claimant, his partner and the relevant children. Ms King indicated that, in addition, to evidence from the claimant, his partner and (possibly) other family members, there was likely to be evidence from a social worker and the school of one of the children. The evidence was likely to be extensive and subject to cross-examination.
5. Both representatives indicated that they agreed that, in the light of these changed circumstances and the impact upon on the re-hearing of the appeal, it would be appropriate to remit the appeal to the First-tier Tribunal for a *de novo* re-hearing rather than retain the appeal in the Upper Tribunal.
6. I agree. My initial direction that the appeal should be retained on the UT was based upon the (then) representatives' position that only limited new additional evidence (none oral) would be adduced at the re-making hearing. The effect of the delay - due to change of solicitors and the Covid-19 crisis - is that the appeal has to start again in order to determine the current circumstances for the claimant's human rights appeal and that is more appropriately done by remittal to the First-tier Tribunal.

Decision on Disposal

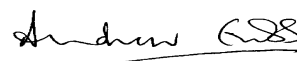
7. Consequently, with the agreement of the parties, I revoke my earlier direction on disposal of the appeal and, under s.12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007, **I remit the appeal to the First-tier Tribunal for a *de novo* re-hearing** in accordance with my directions below.

Directions

- 1) The First-tier Tribunal's decision (Judge Solly) was set aside by my decision sent on 26 June 2019.

- 2) The appeal is remitted to the First-tier Tribunal at the Newport Hearing Centre for a *de novo* rehearing before a judge other than Judge Solly.
- 3) The parties agree that the appeal should not be listed before 1 October 2021 in order to allow the claimant's new representatives to obtain and file additional new evidence.
- 4) The parties indicated that it would be desirable for the First-tier Tribunal to hold a CMR hearing 4 weeks before the listed hearing in order to ensure the parties are ready to proceed and to determine whether the hearing should be held remotely or be a face-to-face hearing. I agree. The FtT is invited to list the appeal for a CMR accordingly.

Signed

A handwritten signature in black ink, appearing to read "Andrew Grubb", with a horizontal line underneath it.

A Grubb
Judge of the Upper Tribunal

16 June 2021