Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00374/2020 (V)

THE IMMIGRATION ACTS

Heard by way of a remote hearing	**Decision & Reasons Promulgated**
On the 14 May 2021	**On 5 July 2021**

Before
UPPER TRIBUNAL JUDGE REEDS

Between

H M A
(ANONYMITY DIRECTION MADE)

AND

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M. Read, Counsel on behalf of the appellant.

For the Respondent: Ms Pettersen, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellant appeals with permission against the decision of the First-tier Tribunal Judge Moxon (hereinafter referred to as the "FtTJ")

promulgated on the 13 October 2020, in which the appellant's appeal against the decision to refuse his protection claim was dismissed.

2. I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008 as the proceedings relate to the circumstances of a protection claim. 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. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

3. The hearing took place on 14 May 2021, by a remote hearing conducted on Microsoft teams which has been consented to and not objected to by the parties. A face- to- face hearing was not held because it was not practicable, and both parties agreed that all issues could be determined in a remote hearing. The advocates attended remotely via video. There were no issues regarding sound, and no technical problems were encountered during the hearing and I am satisfied both advocates were able to make their respective cases by the chosen means.

Background:

4. The appellant is a national of Iraq. His immigration history is set out in the decision letter, the decision of the FtTJ and the papers before the tribunal. It can be summarised as follows.

5. The appellant claimed to have left Iraq on 31 August 2008 and travelled to Norway via Turkey. He remained in Norway for 3 to 4 months and claimed asylum but left in April 2009 before his asylum claim was concluded. He travelled from Norway to France, where he remained for 2 to 3 months before entering the United Kingdom clandestinely by lorry in September 2009.

6. The appellant was encountered in the United Kingdom in December 2009 and arrested, he then claimed asylum. He was removed to Norway the following month. Records show that he was fingerprinted in Denmark on 5 March 2010.

7. At [22] the judge recorded that there was a discrepancy in the evidence of his movement thereafter in relation to whether or not he returned to Iraq in 2010. He is recorded as disclosing that he returned to Iraq where he remained until 2014 and that he re-entered the United Kingdom in June 2015. However, he subsequently asserted that he never returned to Iraq and that it returned to the United Kingdom in 2010, where he remained until it was apprehended in 2015.

8. However, the FtTJ found as a fact that he returned to Iraq in 2010 where he remained until 2014 (see reasoning at [53] (i)).

9. The appellant was encountered in August 2015 and was returned to Denmark on 17 November 2015. However, only eight days later he entered the UK control zone in Dunkirk, where he was issued with illegal entry paperwork. Nonetheless the appellant returned to the United Kingdom, where he was encountered again in June 2017 and detained until August 2017.

10. On 18 August 2017 a request was made to Denmark and Norway under the Dublin III Regulations to take responsibility for his asylum claim. Denmark accepted responsibility and that his claim was refused and certified under third country grounds. Removal directions were set to return to Denmark.

11. As the appellant could not be returned to Denmark within the agreed deadline therefore it was decided on 25 January 2018 that the United Kingdom would take responsibility for his asylum claim.

12. The basis of his claim was that when he was in Iraq he fell in love with a colleague H, and he gradually got to know her, and they began a relationship in 2007. It was asserted that she was from the Barzini tribe and a powerful family. Her father and brother worked for the KDP and had state security guards.

13. After six or seven months the appellant asked his parents to go to her parents and presented a marriage proposal which they did but were turned away. Alternatively, he went with his parents propose marriage to her family that they reacted aggressively but managed to escape. The appellant went to the police, but they did not do anything as he broken one of the country's customary laws.

14. After approximately a month, the appellant's family to propose marriage again. H's father became very angry and threatened the appellant's family and told his parents if they heard or saw him and H together, they would kill the appellant.

15. Two days after the proposal, whilst on the way to work he was attacked by H's brother who threatened to kill him, and he was shot near the leg. He went to the police station to complain but did not think they did anything due to H's family being powerful.

16. Three or four days after he was attacked, he received a phone call from H, she told him to meet her at hospital. The appellant went and met with her who had been severely beaten. Her driver saw the appellant and H together and she told the appellant to leave. He later received a call from his mother who told him that H's family had gone to the house and threatened his father.

17. The next morning on the way to work two cars pulled up and he was put into the car and blindfolded and taken to a room where he was tortured by H's brother. He woke up in hospital and his father told and that he had to leave Iraq. His father said that H's family had gone to the home and threatened to kill him and said they would then kill him and then kill H. He was later told that H was now disabled. Alternatively, before he left Iraq, his father gave me an envelope which contain photographs showing H being beaten and hit with a heavy object on her legs.

18. The appellant claims whilst in Norway he was attacked by a group of men said they been sent by H's father. His location was discovered after his youngest brother mentioned he was in Norway to 1 of his friends at school. Alternatively, his location was discovered after his younger brother was attacked and the family humiliated so they told H's family where it was.

19. The appellant claims it is parents, brother and sister were all killed by ISIS in 2015.

20. The appellant claims that since his arrival in the United Kingdom he has been baptised and converted to Christianity whilst in detention in 2015.

21. The appellant claimed that he had shared a room with another person called A who was from Iran and taught the appellant how to pray. He attended church in the United Kingdom.

<u>The decision of the respondent:</u>

22. In a decision letter of 23 December 2019, the respondent refused his protection claim. The basis of his claim was advanced on to grounds namely his religion (having converted to Christianity) and his membership of a particular social group namely being a potential victim of honour violence in Iraq.

23. In the light of the documentary and supporting evidence, the respondent accepted that he was an Iraqi national of Kurdish ethnicity.

24. At paragraphs [51 – 83] the respondent comprehensively addressed the appellant's claim to be at risk of harm in Iraq as a result of his relationship with H. The respondent set out a number of adverse credibility findings relating to his account which the respondent set out was inconsistent in a number of important aspects with some aspects so highly inconsistent that when considered together demonstrated that his account was not one upon which any reliance could be placed.

25. As to his claimed conversion to Christianity that was addressed in the decision letter at paragraphs [90 – 104]. The respondent set out areas of inconsistency in his evidence and concluded at [104] that taken in the round some of the aspects of his claim were considered inconsistent for someone who regularly attended church had been a practising Christian for four years. Some aspects were said to be inconsistent with external information and the documentation that it provided (the baptism certificate and letters from the church) was given limited weight.

26. At paragraphs [105 – 109], the respondent considered his claim that his parents had been killed but concluded that the appellant had given three different accounts as to the death of his family and thus that was also rejected.

27. At paragraphs 110 – 114, the respondent considered section 8 of the 2004 Act and that as a result of his conduct, having claimed asylum only after he had been arrested in 2015, furthermore, his claim that he arrived in 2009 with the intention of escaping problems in Iraq but did not claim asylum then and also his conduct of travelling through Denmark and France both considered to be safe countries and having failed to take advantage of a reasonable opportunity to make asylum human rights claim. Thus it was concluded that his credibility was damaged by that conduct.

28. The remainder of the decision letter dealt with return to Iraq (the appellant's home area) in accordance with the country materials and the CG case law.

29. The respondent also considered in the alternative that even if it was accepted that he was a Christian, the objective material relevant to Christian converts in the Kurdish region or Iraq did not demonstrate that he would be at a real risk of harm as a result of his religion (at paragraphs 1 to 5 – 130).Article 8 was also considered at paragraphs [157 – 172]. His article 3 claim based on his medical condition was also considered at [173 – 182]. Consequently, his claim was refused on protection and human rights grounds.

<u>The decision of the FtTJ:</u>

30. The appellant appealed that decision, and it came before the FtT (Judge Moxon) on 28 September 2020. In a decision promulgated on 13 October 2020, the FtTJ dismissed his appeal.

31. At the outset of the hearing the judge considered a preliminary application made on the half of the appellant for an adjournment for a witness, the Reverend, to attend. The application was considered by the judge at paragraphs [6]-[11] and also at [65]-[66] but for the

reasons that he gave he refused the application for an adjournment. The judge also noted at [12] a further witness was not available, but an adjournment was not sought on that basis.

32. The judge heard evidence from the appellant and also from a witness, Mr E.

33. His findings of fact an assessment of the evidence is set out in considerable detail from paragraphs [33]-[70]. In considering the appellant's credibility, the FtTJ set out the features of the evidence that enhanced the appellant's credibility at [33] (a)-(d).

34. Whilst the judge assigned some weight to the fact the appellant had some mental health conditions, which corroborated his assertion of negative experiences, the judge concluded for the reasons set out at paragraphs [35]- 37] that the author of the report was not a suitably qualified medical practitioner to provide a diagnosis of post-traumatic stress disorder.

35. As to the weight given to the evidence from the church community, the judge noted that he gave this evidence "substantial weight" at [39], at [41] he also gave the corroborative evidence from the Reverend "significant weight" and that he accepted it came from what should be considered an "expert witness" noting that the author "truthfully believe the appellant to be a genuine convert to the Christian faith." In this context he noted "however upon being faced with someone who attends church and church activities enthusiastically for the past year, the expert would not, nor could he be expected to, subject the appellant's motive to the anxious scrutiny that I must undertake. We have significantly different roles." At [44] he stated "nevertheless, I give significant weight to the evidence of the Reverend which is not diminished by the fact that he was unable to give oral evidence.

36. In relation to the evidence of Mr E, the judge addressed this at [45], noting that the weight was enhanced by the fact that it obtained asylum in the UK on account of his own religious conversion and thus considered as evidence of a "genuine Christian". However, the weight given to the evidence was tempered by the fact that he was a friend of the appellant and therefore was not independent. Furthermore, the judge identified that there was some inconsistency in the evidence between the appellant and the witness as to when they first met. The judge also noted that he gave weight to the evidence of Mr M, who had not attended the court to give evidence that the judge found that "his inability to attend the hearing did not detract the weight that I assign to hs evidence, although I note that he is not independent but is a friend of the appellant."

37. The judge then undertook a critical assessment of the evidence and at [46] set out that in his judgement "the appellant's credibility significantly undermined by the many material inconsistencies in the accounts he has given" and from (a) –(m) set out in detail the inconsistencies in the appellant's evidence which related to his claim to be at risk as a result of an honour crime and also in relation to his conversion to Christianity. The judge identified that there were inconsistencies in his account as to:

    - How he met H,
    - H's family connections,
    - his proposal to H,
    - the discovery of the relationship,
    - the attack upon the appellant by H's family,
    - reporting the attack to the police,
    - the kidnap and torture of the appellant,
    - the attack on H,
    - his whereabouts between 2010 – 2014 and immigration history,
    - his support in the UK between 2010 and 2015,
    - the death of his family,
    - whether he was located in Norway by H's family,
    - attendance at church in the United Kingdom.

38. At paragraphs [47] –[52], the FtTJ addressed the explanations given by the appellant for the inconsistencies in his account. They related to interpretive problems, not being able to understand the contents of his witness statements and the claim that he had memory problems. The judge considered those explanations but gave reasons as to why none of them explained the inconsistencies in his account.

39. The FtTJ went on to identify further aspects of the appellant's evidence that undermined his credibility at [53 – 55] which related to his claim to be at risk of an honour crime and in relation to his claimed conversion to Christianity.

40. The judge further noted that the appellant had failed to obtain evidence to support many of his claims and had not provided a written explanation for that failure particularly in the light that he was legally represented. This included evidence from Norway to confirm his hospitalisation and complaint to the police, medical evidence. The judge also considered that the appellant's credibility was damaged by his failure to claim asylum in the safe countries that he spent time including France and Denmark and his failure to remain in Norway until the outcome of his asylum claim. The judge rejected his claim that he was in fear of H's family in those countries. The judge also found his credibility to be damaged by the fact that he did not initially claim asylum in the United Kingdom and only did so when he was apprehended by the authorities. The judge rejected his account that

he feared being returned to Norway as a sufficient explanation or his assertion of PTSD, memory problems and the side-effects of his medication, a medical report from a scarring or trauma expert, and evidence from A whom he asserted had converted him to Christianity in 2015 and with whom he remained in contact, evidence from his maternal cousin friends or anyone else to evidence that he remained in the United Kingdom between 2010 and 2014.

41. At [g] the FtTJ addressed points raised relevant to section 8 of the 2004 Act and found overall that the appellant's credibility was damaged by his failure to claim asylum in the safe countries that he spent time within including France and Denmark and the failure to remain in Norway until the outcome of his asylum claim in that country. The judge rejected his claim that he feared H's family in those countries. Judge also found that his credibility was damaged by the fact that he did not initially claim asylum in the UK and only did so upon apprehension by the authorities (at ([h]).

42. The judge found as a fact that the appellant returned to Iraq in 2010 where he remained until 2014. In reaching that finding he relied on the contents of the August 2015 travel interview and found the fact the appellant was not materially disadvantaged by the fact that he was questioned in English without the benefit of an interpreter. The judge gave reasons for reaching that view.

43. At [54] the judge considered the baptism certificate that gave reasons why he found the document to be unreliable. At [55] the judge gave reasons why the documents from Iraq are also unreliable.

44. At [56] –[60], the FtTJ returned to the issues in the appeal. He stated as follows:

56. I have stood back and considered all of the evidence in the round and given as much weight as I feel able to the evidence that is supportive of the appellant's claim. I have reminded myself of the low standard of proof to be adopted. However, even upon that low standard of proof I am not satisfied that the appellant has an objective or subjective fear of harm in Iraq, and I find is a fact that he has concocted a fabrication which he has sought to adapt over time. I find him to be an untruthful witness.

57. I find is a fact that his relationship with H, and the subsequent fallout, is a fabrication from beginning to end. Whilst I accept that the core of the claim has remained consistent, and is itself consistent with country evidence, he has been materially inconsistent in relation to almost each and every aspect of the narrative. I am conscious that when an honest person is asked to relate facts numerous times over many years, innocent inconsistencies are likely to occur. I am also conscious that many of the accounts were given in interviews which

are likely to have been stressful. However, these factors do not adequately explain the extent of the inconsistencies about significant stages of his life. He has failed to prove his account, even to the requisite low standard of proof to be adopted.

58. Whilst I give weight to the supporting evidence in relation to the appellant's purported conversion to Christianity, particularly from Reverend M, I am not satisfied, even to the requisite low standard, that he is a genuine Christian convert. I note the general adverse credibility findings, in addition to the lack of corroboration of his conversion from A or others at the material time and the fact that he asserts that he attended a synagogue for over a month without realising that he was not within a Christian church.
59. In light of the adverse credibility findings, my general dismissal of his narrative account, and the fact that he has been inconsistent as the cause of their death, I do not accept that the appellant's family have been killed.

60. I therefore find the fact that the appellant has no objective or subjective fear of returning to the IKR and that he has access to family support.

61. I consider those findings against the country guidance of SMO. The appellant is from the IKR as it would be returned there. I was expressly told that there are no documented barriers to return. In any event am satisfied that he has family you can secure documentation as I reject his assertion that they have been killed. I am satisfied that he would be able to support himself as a healthy male of working age was familiar with the IKR. In any event, I find the fact that he has access to support from his family."

45. At [66] the FtTJ stated that even accepting the appellant's purported religious conversion would not have led to credibility findings that would have the results in a different conclusion of the veracity of his claim fear of honour-based violence in light of the numerous credibility findings and inconsistencies in this narrative of events surrounding the purported relationship with H and the consequences thereof.

46. At [67] – 70] the FtTJ considered in the alternative that even if he had accepted that the appellant was a Christian convert, he would have dismissed his appeal for international protection for the reason that he set out and by reference to the objective material.

47. He concluded at [71 – 72], that he did not accept to the requisite standard of proof that he had entered into a relationship which had resulted him being at risk of any violence. He did not accept that the appellant had attracted the adverse attention of the authorities, ISI S or any particular family as alleged or at all. Nor did he accept that he been subjected to targeted violence or that his family being killed.

Furthermore, he did not accept the requisite standard of proof that the appellant was a genuine Christian convert and in any event, he was not satisfied that any such conversion would place at reasonable risk of harm in the IKR.

48. The FtTJ therefore dismissed the appeal.

49. Permission to appeal was issued and on 16 November 2020, and permission to appeal was refused by FtTJ Adio but on renewal was granted by UTJ Grubb for the following reasons:-

1. The First-tier Tribunal (Judge Moxon) dismissed the appellant's appeal against a decision to refuse his international protection, humanitarian protection and human rights claims. The judge rejected the appellant's claim to be at risk of an honour killing and to have converted to Christianity and so to be at risk of persecution on return to Iraq.

2. The application was lodged one day out of time on 4 December 2020. The delay is trivial and, having regard to all the circumstances including the relative prejudice to the parties, I exercise my discretion to extend time.

3. There are 4 principal Grounds of Appeal ((1)-(4)) with a further supplementary 5 Grounds (5)-(9)) engaging with the FtT's decision to refuse permission on the original four grounds. They only directly challenge the findings and decision in respect of the appellant's claim for asylum based upon his claimed conversion to Christianity. Any challenge to his credibility in respect of the later might (and I state it no higher than that) however infect the findings in respect of his claim to fear an honour killing.

4. Grounds (1) and (2) argue that it was unfair not to adjourn the hearing in order to allow a 'Dorodian' witness to attend. The Grounds are arguable. At para [46(m)] the judge relied upon inconsistencies between the appellant's evidence and that of the 'Dorodian' witness which, in the latter's absence, could not give any evidence that might explain the inconsistencies. It is no answer to this that the witness' evidence was accepted by the Presenting Officer (see para [11]) – the unfairness is to the appellant in denying him an opportunity to deal with the inconsistency by raising it with the witness in oral evidence.

5. I refuse permission on Ground (3), the judge plainly considered the evidence of the appellant's mental health at paras [33(d)] and [34]-[38] and any potential impact it might have on his evidence in the light of his depression but rejecting of a claim that he suffered from PTSD.

6. I would not exclude consideration of Ground (4). If, however, the finding that the appellant is not at risk in the IKR as a Christian convert is sustainable, the issue of materiality of any errors established under the other grounds will need to be established.

7. For these reasons, permission to appeal is granted limited to **Grounds (1), (2) and (4)** (and, to the extent they add any additional challenge, the supplementary Grounds (5), (6), (7) and (9)).

8. Permission is refused on **Ground (3)** and the supplementary Ground (8).

The hearing before the Upper Tribunal:

50. In the light of the COVID-19 pandemic the Upper Tribunal issued directions on indicating that it was provisionally of the view that the error of law issue could be determined without a face- to- face hearing and directions were given for a remote hearing to take place and that this could take place via Skype. Both parties have indicated that they were content for the hearing to proceed by this method. Therefore, the Tribunal listed the hearing to enable oral submissions to be given by each of the parties with the assistance of their advocates.

51. Mr Read on behalf of the appellant relied upon the written grounds of appeal and the written submissions dated 13 May 2021.

52. There was no Rule 24 response filed on behalf of the respondent.

53. I also heard oral submission from the advocates, and I am grateful for their assistance and their clear oral submissions. I intend to set out those submissions by reference to the grounds advanced on behalf of the appellant.

The grounds of challenge:

54. The grounds of permission on the renewed application to the Upper Tribunal consisted of eight grounds of appeal. They are as follows:

Ground 1: the FtTJ acted irrationality by contradicting himself (in the context of the adjournment application).

Ground 2: the failure to provide the appellant with a fair hearing (in the context of the application to adjourn).

Ground 3; failure to consider the medical report.

Ground 4: that the judge misdirected himself to the test to be applied to risk of harm on returning protection claim.

Ground 5: irrationality on the part of Judge Adio when he refused permission.

Ground 6: failure to consider a relevant consideration by Judge Adio.

Ground 7: Judge Adio taking into account an irrelevant consideration.

Ground 8: the failure of Judge Adio to provide reasons in relation to ground three dealing with the medical report.

Ground 9: the failure of Judge Adio when refusing permission on ground 4 relating to the misdirection to be applied to the risk of harm on return in a protection claim.

55. As can be seen by the grant of permission, UTJ Grubb did not grant permission on all grounds and expressly refused permission on ground 3 (relating to the medical evidence) and what was described as supplementary ground (8). Therefore, permission was granted limited to Grounds 1 and 2 which argue that the FtTJ was unfair in not adjourning the hearing to allow a witness to attend and Ground 4. He granted permission on the supplementary Grounds 5,6,7 and 9 only to the extent they add any additional challenge. Those grounds as drafted sought to challenge the decision of Judge Adio when he refused permission.

Grounds 1 and 2

56. I therefore begin consideration of the appeal by reference to grounds 1 and 2 which concern the decision made by the FtTJ to refuse the application for an adjournment for a witness to attend the hearing.

57. Mr Read, Counsel on behalf of the appellant relied upon the written grounds and the skeleton argument filed on the day before the hearing.

58. Ground 1 relied upon by the appellant is stated as follows “the 1st ground is irrationality in that the FtT has acted to contradict itself.”

59. It is submitted in the grounds and the skeleton argument that the FtTJ acted irrationally by not adjourning the hearing and that a “doctrine of precedent” applied which required the FtTJ not to go behind the decision of another judge applying the decision in Devaseelan (see paragraph 17 of the skeleton argument and the oral submissions).

60. Mr Read submits that as a previous judge had adjourned the hearing on 6 March due to the unavailability of the Reverend, the judge who heard the appeal on 28 September 2020 was irrational in failing to adjourn the hearing for the witness to attend.

61. It is further submitted that to proceed in the absence of the witness was unfair to the appellant because the unavailability of the witness denied the appellant the opportunity of explaining apparent contradictions in the evidence which the judge held against the

appellant at paragraph 46(m) (I refer to ground 2 and the written skeleton at paragraph 19).

62. The skeleton argument and the oral submission made by Mr Read refer to the history of the appeal proceedings. I have also had the opportunity to consider the appeal case file and the note made by the judges and the orders contained in it.

63. On 12 February 2020 it is recorded that a notice was sent to the parties adjourning the appeal due to the failure of both the appellant and the respondent to file their respective bundles upon the tribunal within the timescales ("non-compliance) and a direction was sent for both to file their bundles by 19 February 2020.

64. On 21 February 2020 the appeal was listed for hearing before the FTT. I have the FtTJ's handwritten note of the hearing and his reason for adjourning the appeal on that day. He writes "the application for an adjournment made by both parties on the day. Both parties filed bundles on 12 February 2020, due to the flood the HOPO cannot access the file." There is reference to the presenting officer receiving the appellant's bundle of 234 pages on the day of the hearing and that he would not have the time to prepare and that it "it included 2 witnesses he had no prior knowledge of." It is also recorded that the appellant's counsel had received the respondent's bundle on the day of the hearing and that he was trying to access it and also that the refusal letter ran to 45 pages and that there was also insufficient time for him to prepare the appeal. The judge therefore stated, "I concluded that the only fair way to deal with the case was to adjourn it."

65. Therefore, both parties were unable to proceed at the hearing on 21 February 2020 and the hearing was adjourned.

66. I observe that in the appellant's skeleton argument filed by Mr Read he raises an issue concerning the compliance scheme which is part of the FTT case management procedure. Reference is made to the differences in the hearing centres and that the scheme did not apply countrywide. Reference is made at paragraph 4 that the appeal raises broader concerns and whether the judge had properly applied the compliance scheme and also issues of accommodating witnesses.

67. This issue had not been raised in the grounds of challenge nor at an earlier hearing of this appeal in April but arises in a skeleton argument filed the day before the hearing. Consequently, there is been no evidence filed concerning the procedures adopted by the First-tier Tribunal nor has the respondent been on notice that such an issue would be ventilated before the Upper Tribunal.

68. This is not an issue that is raised in the grounds nor can it be considered as one that arises inferentially from the grounds of challenge. In my judgement it concerns an entirely separate argument which relies upon the procedure deployed in the FTT. There is no evidence before this tribunal concerning the operation of those procedures and in the circumstances, I do not consider that it is an issue which the Upper Tribunal is either required or should address. There may be an appeal where a challenge to the procedure rules is properly identified and argued on notice but for the reasons set out above, I am satisfied that this is not the appeal to do so.

69. I return to the chronology. Following the adjournment made on behalf of both parties on 21 February 2020, the appeal was listed for hearing on 6 March 2020. Again, the hearing was adjourned. I have taken the following information from the adjournment form completed by the judge where at paragraph 14 he stated the following:

> "Dorodian witness not available. Appellant solicitors informed week before the hearing but did not inform the tribunal and requested appeal to be given another date. Appellants rep did not supply witness availability."

70. The judge therefore adjourned the hearing on the application of the appellant's counsel. There is little else in the file and I take the following information from counsel's skeleton argument. There followed a notice of hearing for relisting the appeal on 6 July 2020 and further directions were issued on 29 July 2020 for a hearing which had a time estimate of 4 hours. It is said that the notice of hearing which was to take place on 28 September 2020 was received on 17 September 2020.

71. At the hearing before the FtTJ on 20 September 2020 it was argued that the appeal had been listed at short notice on the 17 September 2020 and "the tribunal service had erred in failing to contact the appellant solicitors to ascertain witness availability"(I refer to paragraph 6 of the FtTJ's decision).

72. The FtTJ considered the application for an adjournment setting out his reasoning for refusing the application at paragraphs [6]-[12]. He stated as follows:

> "6. At the outset of the hearing Mr Read sought an adjournment as a witness for the appellant, Reverend X, was unavailable to attend as he was officiating a funeral. Mr Read argued that the hearing had been listed at short notice on 17 September 2024 hearing on 28 September 2020 and that the tribunal service had erred in failing to contact the appellant solicitors to ascertain witness availability.
>
> 7. The evidence of Reverend X is at page 70 of the appellant's bundle and is a letter, dated 22 January 2020, in which he states that he is known the appellant since the appellant joined the church at the end of September 2019 and that thereafter he has been a regular attender

> and is developing his understanding of the Christian faith. There is an earlier letter from the Reverend within the respondent's bundle.
>
> 8. Mr Saddique helpfully confirmed that the credibility of the Reverend was not challenged and that it was accepted that the Reverend honestly believes the appellant to be a genuine convert to Christianity.
>
> 9. When considering an application to adjourn, the primary consideration is 1 of fairness, as outlined in Nwaigwe (adjournment: fairness) [2014] UKUT 00418 (IAC).
>
> 10. Whilst I accept that the Reverend has a good reason his absence, I nevertheless concluded that it was fair and in the interests of justice to proceed in the absence of his oral evidence. I noted that the hearing had been adjourned once before and the appeal relates to a decision made over 10 months ago. Unnecessary further delay is to be avoided. Further, the criticism of the tribunal service is misplaced. The appellant is represented by an experienced firm of immigration solicitors that knew that the hearing was due to be listed and you that such hearings are listed at relatively short notice. It is therefore incumbent upon them to be proactive in providing witness availability, something that Mr Read confirmed they had failed to do.
>
> 11. Finally, and most importantly, the witness evidence is not contested. The appellant therefore has the benefit of accepted witness evidence from a Reverend who honestly believes to be a Christian convert. As such, the witness' presence would not add anything to the appellant's case. It was not argued that there was additional evidence that he would be required to give, and in any event had that been the case no doubt the solicitors would have obtained an addendum witness statement for him in advance of the hearing in accordance with the standard directions in regard to service of evidence.
>
> 12. Later in the hearing Mr Read told me that the witness Mr M was not available to give life evidence due to suffering flu symptoms. He did not seek an adjournment on that basis and in any event I'm satisfied that it was fair to proceed in his absence and that I could consider the contents of his witness statement in the round with all of the evidence in the case."
>
> Later at [65] the FtTJ stated that he had "Revisited the application to adjourn" but reached the conclusion "that it was fair and in the interests of justice to proceed with the hearing the reasons outlined in paragraphs 10 and 11 above."

73. I therefore considered the grounds of challenge in light of the procedural background. Having done so I cannot accept the submission made by Mr Read that the FtTJ was bound by way of precedent to make the same decision as the judge on 6 March 2020.

74. Mr Read has set out in his skeleton argument references to 2 decisions, Devaseelan [2002] UKUT 702 and Young v Bristol Aeroplane Company, Ltd [1944] 1 KB 718. Mr Read did not take the tribunal to those decisions but sought to rely upon them to support

his argument that the decision in Devaseelan was "authority for the legal proposition that a judge should not go behind the back of a brother or sister judge." In relation to the decision of Young v British Aeroplane Company, Ltd he relies upon paragraph 729 where it was stated:

> "on a careful examination of the whole matter we have come to the clear conclusion that this court is bound to follow previous decisions of its own as well as those of courts of coordinate jurisdiction."

75. In my judgement neither of those decisions have any bearing upon the decision of the FtTJ. The decision of Devaseelan relates to the factual findings made by a previous judge when hearing an appeal by the same appellant and the circumstances that apply. The guidance in that case was referred to with approval by the Court of Appeal in Djebbar v SSHD [2004 EWCA Civ 804. Judge LJ said this about the application of the guidelines at [30]: "perhaps the most important feature of the guidance is that the fundamental obligation of every special adjudicators independently to decide each new application on its own individual merits was preserved." Having set out the guidance and consider the criticisms made of it by the claimant in that case, Judge LJ said at [40] "the great value of the guidance is that it invests the decision-making process in each individual fresh application with the necessary degree of sensible flexibility and desirable consistency of approach, without imposing any unacceptable restrictions on the 2nd adjudicators ability to make findings which he conscientiously believed to be right. It therefore admirably fulfils its intended purpose." As set out in SSHD v BK (Afghanistan) [2019] EWCA Civ 1358 the authorities are clear that the guidelines are not based on any application of the principle of res judicata or issue estoppel.

76. As to the decision in Young (as cited), the Court of Appeal considered that it was bound to follow its own decision and those of courts of coordinate jurisdiction and the "full" court is in the same position in this respect as a division of the court consisting of 3 members. The court set out 3 exceptions to the rule, (1) the court is entitled and bound to decide which of 2 conflicting decisions of its own it will follow; (2) the court is bound to refuse to follow a decision of its own which, though not expressly overall, cannot, in its opinion, stand with the decision of the House of Lords: (3) the court is not bound to follow a decision of its own if it is satisfied that the decision was given per incuriam, e.g. where a statute or a rule having statutory effect it would have affected the decision was not brought to the attention of the earlier court.

77. In my judgement neither of those cases provide any assistance for the appellant nor do they support his argument.

78. The 3rd case cited is that of Nwaigwe (adjournment: fairness) [2014] UKUT 00418 (IAC) and is a decision which deals expressly with case management decisions.

79. The First-tier Tribunal (Immigration and Asylum Chamber) 2014 Rules at Rule 4(3) (h) empowers the Tribunal to adjourn a hearing. Rule 2 sets out the “overriding objective” under the Rules which the Tribunal "must seek to give effect to" when exercising any power under the Rules. It follows that they are the issues to be considered on an adjournment application as well. The overriding objective is to deal with cases “fairly and justly” (at Rule 2(1). This is defined as including "(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal; (b) avoiding unnecessary formality and seeking flexibility in the proceedings; (c) ensuring, so far as is practicable, that the parties are able to participate fully in the proceedings; (d) using any special expertise of the Tribunal effectively; (e) avoiding delay so far as compatible with proper consideration of the issues".

80. In Nwaigwe (adjournment: fairness) [2014] UKUT 00418 (IAC) it was held that If a Tribunal refuses to accede to an adjournment request, such decision could, in principle, be erroneous in law in several respects: these include a failure to take into account all material considerations; permitting immaterial considerations to intrude; denying the party concerned a fair hearing; failing to apply the correct test; and acting irrationally. In practice, in most cases the question will be whether the refusal deprived the affected party of his right to a fair hearing. Where an adjournment refusal is challenged on fairness grounds, it is important to recognise that the question for the Upper Tribunal is not whether the FtT acted reasonably. Rather, the test to be applied is that of fairness: was there any deprivation of the affected party's right to a fair hearing?

81. The decision to refuse the application for adjournment was a case management decision which the first instance Judge will have a wide discretion based on the ordinary principles of fairness and in the light of the overriding objective contained in the procedural rules.

82. In my judgement there is no binding principle of precedent which would preclude the FtTJ from exercising his own discretion on the issue of an adjournment as the trial judge seized of the appeal and therefore would be expected to have a full understanding of the issues relevant to the appeal and the evidence relied upon. The FtTJ was fully aware of the earlier decision to adjourn the hearing.

83. It seems to me that the real issue, which is identified from the decision in Nwaige, and the procedural rules is whether the decision to refuse the application for an adjournment resulted in any unfairness to the appellant.

Ground 2:

84. This leads me to ground 2. Mr Read on behalf of the appellant submits that the judge failed to provide the appellant with a fair hearing and the reasons given by the FtTJ at paragraph [10] and his reference made to the hearing having been adjourned before, was not relevant to the question of whether the hearing was fair or not.

85. I have set out earlier the reasons given by the FtTJ for refusing the application for an adjournment for the Reverend to give evidence. Whilst the grounds refer to paragraph [10] in isolation, in my judgement the decision needs to be read as a whole.

86. The FtTJ plainly considered the applicable procedural rules and did so in light of the overriding objective of dealing with cases "justly and fairly". His reference to the issue of delay is a matter expressly set out within the procedural rules at paragraph 2 (1) (e) and therefore the judge was not in error in considering the issue of delay. Furthermore, it was open to the FtTJ to take into account what he set out at [10]: "further, the criticism of the tribunal service is misplaced. The appellant is represented by an experienced firm of immigration solicitors that knew the hearing was due to be listed in you that such hearings are listed at relatively short notice. It is therefore incumbent upon them to be proactive in providing witness availability, something that Mr Read confirmed they had failed to do."

87. That said, it is plain from reading the decision that the judge had at the forefront of his mind the issue of fairness and expressly directed himself to that test at paragraph [9] as a "primary consideration" when reaching his overall decision.

88. It is not the position as the grounds argue (at paragraph 27) that the appellant could not succeed without the attendance of the Reverend. The grounds cite the decision of Dorodian and that no one should be regarded as a committed Christian who is not vouched for as such by Minister of the church. However, that does not mean that written evidence which confirms this is evidence which cannot be taken into account as relevant and confirmatory evidence of such a claim.

89. When considering the issue of fairness, the FtTJ was entitled to take into account the nature of the evidence to be given by the witness. The judge set out at [7] that it was in the form of a letter on page 70 of the appellant's bundle dated 22/2/20 and there was an earlier letter from him in the respondent's bundle.

90. At paragraph [8] the judge recorded that the presenting officer acting on behalf of the respondent "confirmed the credibility of the

Reverend was not challenged" and "that it was accepted that the Reverend honestly believed the appellant to be a genuine convert to Christianity."

91. At paragraph [11] the FtTJ stated:

"11. Finally, and most importantly, the witness evidence is not contested. The appellant therefore has the benefit of accepted witness evidence from a Reverend who honestly believes him to be a Christian convert. As such, the witness' presence would not add anything to the appellant's case. It is not argued that there was additional evidence that he would be required to give, and in any event had that been the case no doubt the solicitors would have obtained an addendum witness statement from him in advance of the hearing in accordance with the standard directions in regard to service of evidence."

92. Therefore, the contents of the evidence of the Reverend as set out in 2 letters was not contested but ranked as accepted evidence. In those circumstances it cannot reasonably be said that there was any unfairness to the appellant as a judge identified that the benefit operated in favour of the appellant and that "the appellant therefore has the benefit of accepted witness evidence from a Reverend who honestly believes him to be a Christian convert." The judge also made the relevant observation as to what necessarily followed from this and that "as such the witness' presence would not add anything to the appellant's case."

93. The judge was also entitled to take into account at the hearing that it had not been stated or argued that there was any additional evidence that the witness would be required to give. Indeed, it has not been identified in the grounds or at the hearing that any additional evidence that the witness would have given was not contained in the 2 letters obtained from the witness prior to the hearing.

94. As a judge correctly took into account at paragraph [11] , if that had been the case "no doubt the solicitors would have obtained an additional witness statement from the Reverend in advance of the hearing in accordance with the standard directions in regards to the service of evidence" relied upon. That is consistent with the general rule that witnesses giving oral evidence should provide a written statement of that evidence to stand as their evidence in chief as part of the general case management powers of the tribunal.

95. Furthermore, as submitted on behalf of the respondent it is not the case that the judge sought to give little weight to the evidence of the Reverend on the basis of his failure or otherwise to attend the hearing. That would have been irrational in light of the decision to not adjourn the hearing.

96. In fact the FtTJ did not just give the evidence "weight" but gave the evidence "substantial weight" (at [39]) and "significant weight" (at [41] and [44]) where again the FtTJ reiterated the way in which he approached the evidence. He stated:

> "I give significant weight to the evidence of the Reverend which is not diminished by the fact that he was unable to give oral evidence."

97. In his skeleton argument and his oral submissions Mr Read submitted that the refusal to adjourn the hearing unfairly prejudiced the appellant's case because the unavailability of the Reverend denied the appellant the opportunity of explaining apparent contradictions in the evidence which the judge held against him at paragraph 46 (m) of the decision.

98. The grounds state "from [46] at (a)- (m) the tribunal listed the inconsistencies in A's evidence. It is only finally at (m) that the tribunal notes inconsistencies relevant to the question of A's conversion to Christianity. The inconsistencies are difference in the accounts of A's church attendance between the oral evidence given by the AA under cross examination and the witness evidence given by the Dorodian witness. The failure to allow the Dorodian witness to attend denied the appellant the benefit of any correcting or clarifying evidence of the inconsistencies that the Dorodian witness may have been able to offer the tribunal. That is clearly disadvantaged a in the tribunal's assessment of his credibility. That disadvantage is unfair."

99. I have therefore considered this submission with care and have done so in the light of the decision.

100. At paragraph 46 (m) the FtTJ stated as follows:

> "(m) attendance at church in the United Kingdom; He disclosed that he had been attending the church since the beginning of the year (2019) and he repeated that assertion during his oral evidence. However, Reverend details in his witness statement that he started working at St X's in November 2018 and that the appellant started attending in September 2019, which significantly undermines the appellant's account of having started at the beginning of the year. When the inconsistency was put the appellant during cross-examination, he stated that Reverend did not know when the appellant started as the Reverend had started work at the church afterwards, but this is not correct, as the Reverend stated that he started to work at the church in 2018."

101. At [47] –[52] the FtTJ sets out his reasons for rejecting the appellant's various explanations for the inconsistencies of his evidence that the judge had summarised in the earlier paragraph at [46] (a) –(m).

102. At subparagraph (m) the FtTJ refers to the appellant's evidence that he had been attending church since the beginning of the year (2019). The judge identifies 2 sources of evidence. In his asylum interview at question 153, the appellant was asked, "how long have you been attending the church?" He answered, "I started attending the church at the beginning of the year because before that I was in a bad state, but I was praying, because I used to spend most of my time at home."

103. The 2nd source was the appellant's oral evidence at the hearing where he repeated what he had said in his interview that he had been attending the church since the beginning of the year 2019.

104. The FtTJ stated that the Reverend's evidence set out in his letter stated that the Reverend began working at the church in November 2018 and that the appellant started attending in September 2019 (see letter dated 25/10/19). The letter went on to state "he informed me he was attending in the past. I personally could not validate this as I have only been in post X since November 2018".

105. The FtTJ stated that the evidence of the Reverend "undermines the appellant's account of having started at the beginning of the year".

106. The judge went on to state, "when the inconsistency was put the appellant during cross-examination he stated that Reverend X did not know when the appellant had started as the Reverend had started work at the church afterwards" (that is, after the beginning of 2019) but the judge stated, "but this is not correct as the Reverend stated that he started to work at the church in 2018".

107. The grounds assert that the inconsistencies in the evidence set out at (m) are the differences in the accounts of the appellant's church attendance between the oral evidence given by the appellant under cross examination and the written evidence given by the Reverend and that the failure to allow the Reverend to attend the hearing denied the appellant the benefit of correcting or clarifying the evidence of the inconsistencies. It is on that basis it is asserted that this had the effect of disadvantaging the appellant in the tribunal's assessment of his credibility.

108. In my judgement the grounds fail to properly assess the evidence set out at subparagraph (m). The inconsistency was not based on the appellant's oral evidence in cross-examination but was based on the evidence given in his interview at question 153 which was repeated in oral evidence. Therefore the discrepancy was set out in the

appellant's evidence before he gave oral evidence in cross examination where he repeated the same point. The apparent inconsistency was also set out in the decision letter at paragraph 95 and therefore it stood as a clear discrepancy from December 2019 which was the date of the decision letter.

109. The witness had already clarified this in his letter that the appellant had said that he had attended the church "in the past" but that the Reverend could not "personally validate this" as he had only been in post since November 2018. The Reverend provided a later letter at page 70 of the appellant's bundle dated February 2020 and again the witness confirmed that the date of his knowledge of the appellant stating, "I have known him since he joined the church at the end of September 2019".

110. It is reasonable to assume that the discrepancy was plain well before the hearing on 28 September 2020 and in fact was plain since December 2019 as it was set out in the decision letter and it was repeated in the Reverend's evidence in February 2020. Notwithstanding that evidence, the appellant confirmed that he had started at the church in the earlier part of 2019. It is therefore not the position that the failure to adjourn denied the appellant the benefit of correcting the evidence. The appellant had the opportunity to clarify his evidence a number of months before the hearing, but no steps had been taken to do so. When looking at the letter written by the Reverend, he had been consistent in his evidence that he joined the church in November 2018 and that the appellant had joined in September 2019. He referred to the appellant's claim that the appellant had stated that he had attended "in the past" but that he could not validate this. It has therefore not been demonstrated that the witness could clarify any inconsistency. Furthermore, it was not the Reverend's inconsistent evidence but that of the appellant himself. Nor has it been demonstrated that the inconsistency arose as a result of cross-examination. That is clearly not the case when the evidence is considered as a whole.

111. During the hearing I invited counsel to identify any other inconsistencies in the evidence which the Reverend would have been able to clarify. Mr Read was not able to point to any save for the above issue which had been replicated in the grounds and the skeleton argument.

112. Drawing those issues together, the decision made to refuse the application for an adjournment was a case management decision over which the FtTJ had a wide discretion applying the ordinary principles of fairness. In my judgement the FtTJ was plainly aware of the relevant procedure rules and expressly took into account the decision of Nwaige (as cited) which underscored the importance of fairness to the proceedings. The judge gave adequate and sustainable reasons

for reaching the conclusion that it had not been demonstrated that it was not in the interests of justice to adjourn the appeal and that there would be no unfairness to the appellant in doing so by fully taking into account the nature of the evidence of the witness and whether it was contested or not and also as the decision demonstrates, the judge not only gave weight that evidence but gave it significant and substantial weight in his assessment, taking that evidence at its highest.

113. Against that background, I accept the submission made on behalf of the respondent that the decision taken by the judge could not be properly described as irrational but one in which he gave sustainable reasons to support taking that course of action and in my judgement it has not been demonstrated that there has been any unfairness to the appellant in doing so. Therefore grounds 1 and 2 are not made out.

114. It is accepted that permission to appeal was not granted in respect of ground 3.

Ground 4:

115. I now turn to ground 4. It concerns paragraph [70] of the FtTJ's decision, where the FtTJ stated, "As such even if I was to accept to the requisite low standard of proof that the appellant is a Christian, I would nevertheless not be satisfied that there is a reasonable risk of harm that would result to the appellant in Iraq."

116. It is submitted on behalf of the appellant that a "reasonable risk of harm" is not the test for protection and that the test for protection is a "real risk" that is a risk that is "not fanciful". An alternative formulation includes "a reasonable degree of likelihood (or a real risk) of the claimants fear of being well-founded."

117. It is therefore submitted by Mr Read that the FtTJ misdirected himself to the test to be applied to the risk of harm on return in a protection claim.

118. Ms Pettersen on behalf of the respondent submitted that this was an alternative finding and that on the earlier findings made by the FtTJ he had rejected the appellant's factual claim to be at risk of harm as a result of his relationship with a woman in Iraq and also rejected his conversion to Christianity. Thus even if the judge erred in what she described as an "in felicitous statement" at paragraph [70], it was of no materiality to the outcome as the FtTJ had made sustainable findings that the appellant was not a genuine Christian convert and therefore any assessment of risk of harm in that regard set out at paragraph [70]was not material to the outcome.

119. Ms Pettersen further submitted that there had been no challenge in the written grounds to the FtTJ's assessment of the objective evidence which the judge set out and analysed at [68]-[69].

120. I am not satisfied that the FtTJ erred in law as the grounds contend. The First-tier Tribunal is an expert tribunal charged with administering a complex area of law in challenging circumstances. It is probable that in understanding and applying the law in its specialised field the Tribunal will have got it right. The decision of the FtTJ is to be read as a whole. The FtTJ was plainly aware of the burden and standard of proof applicable to the appeal which he set out in his decision at paragraphs [13] –[15]. The FtTJ correctly referred to the burden on the appellant to show that "a reasonable degree of likelihood that returning to Iraq would expose him to a real risk of an act of persecution…" And a "real risk of serious harm" (as set out at paragraph 14 and 15). At a number of points in his decision the FtTJ correctly referred to the "lower standard of proof " (see at [56],[58]). In his concluding paragraphs at [62] the FtTJ addressed the risk of return to Iraq stating, " I do not accept that there is a reasonable degree of likelihood that returning the appellant to Iraq would expose him to a real risk of persecution" and at [63] " I am not satisfied that there are substantial grounds for believing that the appellant would face a real risk of serious harm..". At paragraph [70] the FtTJ referred to the "requisite low standard of proof" which in my judgement could only refer to the applicable test of "reasonable degree of likelihood" and therefore any reference to "reasonable risk of harm" should viewed in the context of the decision as a whole. Consequently, I am not satisfied that the judge fell into error.

121. In any event, as Ms Pettersen submits, even if there were an error it would have no materiality to the outcome given the FtTJ's primary conclusion whereby the judge rejected the appellant's account of entering into a relationship which would have resulted him being at real risk of violence, or that he had attracted the adverse attention of the authorities or ISIS or any particular family. Nor did the judge accept that he had been the subject of any targeted violence as alleged or at all or that his family had been killed. Furthermore, on the assessment undertaken by the FtTJ, the appellant was not found to be a genuine Christian convert and therefore any reference in the alternative to risk of harm on that basis was not material to his decision.

122. Standing back and considering the decision reached by the judge as a whole, I am satisfied that the FtTJ undertook a careful analysis of the appellant's factual claim. The grounds do not seek to challenge any of the factual findings made in respect of his account of events in Iraq and the conclusions reached concerning the credibility of the appellant and the significant inconsistencies in his account

summarised by the FtTJ at paragraph 46 (a)-(l) and also at [53] (a) – (i). The FtTJ similarly undertook a careful appraisal of the evidence advanced on behalf of the appellant relating to his claimed conversion to Christianity. The FtTJ did not reach his conclusion solely based on the earlier findings relating to events in Iraq but also by considering the evidence holistically which included the oral evidence of the appellant and his witness who attended at the hearing and also the written evidence of the Reverend and Mr M (see TF (Iran) v Secretary of State for the Home Department [2018] CSIH 58, 2019 SC 81). The FtTJ gave substantial weight to the evidence from the Reverend (at [39] and [41]) whose evidence he accepted should be considered as expert evidence(although an approach now subject to some criticism by the Upper Tribunal (see MH (Review; slip rule; church witnesses) Iran [2020] UKUT 125 (IAC)). In undertaking that factual assessment, the FtTJ accepted that the Reverend truthfully believed the appellant to be a genuine convert to the Christian faith but also the judge was entitled to reach the view that the Reverend would not, nor could he be expected to, subject the appellant's motives to the anxious scrutiny that he must undertake as the judge. His observation that "we have significantly different roles" accurately described their respective positions. The FtTJ in this case, as in all others, as the factfinder considered the evidence as a whole, which included the opinion evidence from the church.

123. In my judgement the FtTJ carried out a careful consideration of the evidence in the round and reached overall conclusions that were open to him. In particular, the FtTJ was entitled to take into account the following evidential factors:

(1) his rejection of the appellant's assertion that he was unable to attend church and United Kingdom prior to 2019 (see [53] (c)),
(2) that his attendance at a "Jewish church" for a significant period was implausible and that a committed Christian who had converted to the faith despite the belief that it would place him at risk of harm his own country, would attend the wrong religion unwittingly on several occasions until someone pointed out his error was implausible (at [53] (d)),
(3) the inconsistent evidence given by his supporting witness at [45].
(4) The appellant's failure without good reason to inform his close family member with whom he has lived with or been supported by of his conversion to Christianity ([53](e)),
(5) the failure to provide evidence from A whom he asserted converted into Christianity in 2015 with whom he remained in contact with (at [53](f) (iv))
(6) the rejection of the baptism certificate as a reliable document (at [54]).

124. Consequently, for the reasons given above, I am satisfied that the decision of the FtTJ did not make an error on a point of law and the decision of the FtT stands. The appeal is dismissed.

Notice of Decision.

125. The decision of the First-tier Tribunal did not involve the making of an error on a point of law and therefore the decision of the FtT stands.

Signed Upper Tribunal Judge Reeds

Dated 29 June 2021

I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008 as the proceedings relate to the circumstances of a protection claim. 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. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

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.