

appeal accept that the appellant had fled to Europe after he had been beaten and threatened by members of a drugs cartel after he refused to assist them in supplying drugs in his home area in 2018. However, the Secretary of State contends that the appellant is not at real risk on return on account of being a gay man and that he could reasonably relocate to Mexico City to obviate any risk from the cartel. The First-tier Tribunal (Judge T Jones) dismissed the appeal. It found that the appellant was not at real risk on return on account of his sexuality (a finding not challenged on appeal) and that he could relocate to Mexico City, the cartel not having the ability and having no further interest in committing resources to seeking to locate and harm the appellant or his partner. The appellant now appeals, with permission, to the Upper Tribunal.

2. There is one ground of appeal. The appellant asserts that the judge placed excessive weight on his finding that the cartel had made no attempt to locate the appellant's mother and sister (it was the appellant's claim that the cartel was likely to harass the appellant by threatening his family) even though they live only 45 minutes drive from the appellant's former home. The judge had overlooked the appellant's evidence that, having been threatened by the cartel, he had ceased visiting his mother and sister to minimise the risk of the cartel members following him to their home. By taking that precaution, the appellant had 'obviated any risk' to his mother and sister; the question which the judge had failed to answer was whether the cartel would be able and willing to find the appellant should he return to Mexico.
3. Notwithstanding the skilful submissions of Mrs Johnrose, who appeared for the appellant at the remote initial hearing in the Upper Tribunal, I do not find that the judge has erred in law such that his decision falls to be set aside. I find that the judge's reasoning is not at fault for the reason advanced in the grounds. The submission made by Mr Bates, who appeared before the Upper Tribunal for the Secretary of State, was essentially the same as that advanced by the Presenting Officer before the First-tier Tribunal, namely that the power and influence of the cartel and its interest in the appellant had been significantly overestimated by the appellant. Judge Jones accepted [69] the Presenting Officer's submission that the appellant's claim that the cartel had considerable power and influence with the authorities and police was simply not consistent with the fact that the cartel's members would have to rely solely upon following the appellant to the home of his family because they lacked the 'will or resource' to trace the family's whereabouts by any other means. The judge had taken that fact as the basis for his clear finding that, notwithstanding their history of harming the appellant, the cartel's members had lost interest in finding and harming the appellant in an area as vast as Mexico City either directly (the judge's finding that the cartel would not know that the appellant had returned to Mexico is, in my opinion, wholly valid) or through threats to his family. The judge was not required to decide whether the cartel had not sought to harm the mother and sister because they lacked to resources or influence to locate them or because they had lost interest in the appellant; from the decision, it is

clear that the judge considered that both explanations were likely to be relevant. As the judge pointed out [75], two years had elapsed since the appellant had 'disappeared from [his home area] of Mexico intending not to return.' I am satisfied that the judge's decision adequately explains the Tribunal's reasons for dismissing the appeal and that those reasons are both cogent and were available to the judge on the evidence before him. I therefore dismiss the appeal.

Notice of Decision

The appeal is dismissed.

Signed
Upper Tribunal Judge Lane

Date 4 March 2021

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

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