**IN THE UPPER TRIBUNAL**
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-001220

First-tier Tribunal No: HU/04376/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**
**On 9 October 2023**

**Before**

**UPPER TRIBUNAL JUDGE BLUNDELL**

**Between**

**KARLOS VON DAVID SIMON**
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Karen Reid, Counsel, instructed by J McCarthy Solicitors
For the Respondent: Arifa Ahmed, Senior Presenting Officer

**Heard at Field House on 14 August 2023**

## DECISION AND REASONS

1. On 30 January 2023, a panel of the Upper Tribunal comprising me and Deputy Upper Tribunal Judge Hanbury set aside the decision of the First-tier Tribunal in this case. We ordered that the decision on the appeal would be remade following a further hearing. After two abortive attempts to hear the resumed hearing, the appeal finally returned before me, sitting alone, on 14 August 2023. I appreciate that the appellant and his family will have been anxious to receive this decision and I regret the delay in producing it.

## Anonymity

2. The Upper Tribunal's first decision ended by noting that the anonymity direction which was previously in force would not continue unless there was an application for the same, supported by reasons. There has been no such application and I hereby discharge the anonymity order. I am conscious

that the proceedings concern the wellbeing of two children, however, and I will refer to them only by an initial. There is no reason why the adults to whom I refer should not be identified by name.

**Background**

3. The appellant is a citizen of Grenada who was born on 24 January 1986. It is necessary in this decision to say rather more than I did in my first decision about his immigration history. I take what follows substantially from the front page of the respondent's bundle.

4. The appellant first came to the UK in 2008, as a visitor. He formed a relationship with a British citizen, Sheraine Williams, and they had a daughter together. She was born in the UK on 12 June 2012. I shall refer to their daughter as "A". The appellant returned to Grenada after his relationship with Ms Williams broke down. He sought to re-enter the UK in 2012 but he was refused leave to enter and returned to Grenada.

5. The appellant subsequently formed a relationship with another woman whilst he was in Grenada. They married in Grenada on 31 October 2013. The applicant sought to enter the UK in reliance on that relationship in 2014. He appealed against the refusal of leave to enter and his appeal was allowed by the First-tier Tribunal (Judge Somal) on 20 January 2015. That decision was subsequently affirmed on appeal (Judges Bruce and Saini) and the appellant was granted entry clearance as the spouse of a settled person on 18 August 2015. He arrived in the UK in that capacity in December 2015.

6. Six months later, however, the appellant was informed that his leave to enter had been curtailed because his relationship with his wife no longer subsisted. Steps were taken in April 2017 to remove him from the United Kingdom. That prompted the appellant to seek asylum but that claim was refused. The appellant appealed. His appeal was heard by First-tier Tribunal Judge Haria and allowed on human rights grounds on 25 July 2018. The appellant was granted limited leave to remain as a result of her decision, valid until 30 April 2021.

7. The appellant was convicted of battery and possession of an offensive weapon on 7 January 2020 and he was sentenced by HHJ Barrie to a total of 14 months' imprisonment on 17 July 2020. The judge's sentencing remarks refer to the appellant wielding a large machete in a public place after becoming involved in an altercation in a bar.

8. That prompted the respondent to initiate deportation proceedings. Representations were duly made on the appellant's behalf. On 11 September 2020, the respondent made a deportation order. On 31 March 2021, she decided to refuse the appellant's human rights claim.

9. The respondent accepted that the appellant enjoyed a family life with A. She also accepted that he had a relationship with his partner, Kalesha Miller, and with her two daughters, Tanise (an adult) and K (a child of primary school age). She did not accept that the appellant's deportation would give rise to unduly harsh consequences, or that it would be in breach of Article 8 ECHR.

10. The appellant's appeal against that decision was allowed by the First-tier Tribunal but that decision was set aside in full. I proceed to consider the appeal de novo. In doing so, I have taken Judge Haria's decision as my starting point. She found that the appellant's asylum claim was a fabrication. She accepted that the appellant enjoyed a genuine and subsisting relationship with A despite the breakdown of his relationship with Mrs Williams and, although he did not live with her, she found that it was in A's best interests for the appellant to remain in the UK and to continue to play a role in his daughter's life. The judge attached some weight to the appellant's relationship with his partner, Ms Miller. Having taken account of the matters which militated against the appellant under Article 8(2), the judge found that his removal would be in breach of Article 8 ECHR. So it was that she allowed the appeal.

**The Resumed Hearing**

11. The appellant particularly relies in this appeal on his relationships with A, K and T. His relationship with Ms Miller has come to an end and he now lives with, and helps, her parents. He submits that it would be difficult for him to find work in Grenada and to fit in more generally. He asks for his appeal to be allowed on the basis that his deportation would be unduly harsh on his family or, alternatively, on the basis that there are very compelling circumstances over and above those in the statutory exceptions which suffice to outweigh the public interest in deportation.

12. Additional evidence was adduced by both parties for the remaking hearing. Ms Ahmed produced a PNC printout showing that the appellant had been convicted of a possessing a bladed article in a public place on 14 November 2022. He had been sentenced to nine months' imprisonment and a restraining order had been imposed. She also produced the sentencing remarks of HHJ Curtis-Raleigh in relation to this second offence.

13. The appellant's solicitors produced a helpful consolidated bundle of 76 pages, which included an updated statement from the appellant and a number of exhibits, in addition to the material which had been before the FtT. Ms Reid stated at the start of the hearing that some material had not been included in the consolidated bundle. That included letters from Ms Miller and a school. There was also some medical evidence which had been emailed to the Tribunal and letters written by character witnesses. I admitted all of that evidence and indicated that I was also content to hear evidence from the appellant's sister, Ms Brown. I am grateful to Ms Reid for taking a statement from Ms Brown which could stand as her evidence in chief.

14. I heard oral evidence from the appellant and his sister. I will not rehearse that evidence in this decision but will instead refer to it insofar as it is necessary to do so to explain my findings of fact.

**Submissions**

15. Ms Ahmed relied on the Secretary of State's decision. She accepted that Judge Haria's decision was the starting point for my assessment but she submitted that the appellant had attempted to mislead me in the same way

as he had attempted to mislead Judge Haria. It was nevertheless accepted that the appellant had an ongoing relationship with his daughter A, as had been stated by the appellant's sister, Ms Brown. Ms Ahmed described Ms Brown as an impressive witness and a caring aunt.

16. Ms Ahmed noted that the appellant had committed offences whilst his immigration status was precarious. There was some doubt as to whether the appellant had pleaded guilty or not guilty to the latest offence and there was in any event a real concern over his minimising the offence. He had not learned his lesson, as the sentencing judge had observed. It was also notable that a restraining order had been imposed, preventing the appellant from contacting Ms Miller directly or indirectly.

17. Ms Ahmed accepted that it would be unduly harsh to expect either A or K to relocate to Grenada with the appellant. A had family in the UK, including her aunt, and she had always lived with her mother. There was limited evidence of the appellant giving her any financial support. The email from Ms Williams suggested that she had been asking for financial support 'for years'. It would be upsetting for both girls if the appellant was deported but they would have the support of their family and they had managed whilst the appellant was in prison. Ms Ahmed accepted that alternative arrangements would need to be made to get K to school in the appellant's absence. There would also be an emotional impact on the family but the impact would not, when taken as a whole, amount to undue harshness. Nor was there anything which sufficed to meet the high threshold in s117C(6). The difficulties in the appellant relocating to Grenada had been overstated.

18. Ms Reid accepted at the outset of her submissions that it appeared to be the case that the prosecutor had asked the judge to impose a restraining order after the appellant's last offence. There was no reason to think that Ms Miller had asked for the order to be made, however, and Ms Brown's evidence suggested that was not the case.

19. Ms Reid noted that the case for the respondent only involved the 'stay scenario'; it was not suggested, therefore, that the appellant's family should relocate to Grenada with him. Her submissions were tailored accordingly. It had been accepted by Judge Haria that the appellant played a parental role in his biological's daughter's life. The evidence now showed that he played an important role in K's life as well. Given their ages and the amount of contact which was described, the appellant's removal from their lives would have a serious effect. Only relatively short periods of time, of between three and four months, had been spent with the appellant away from the children whilst he was in prison. Were he to relocate to Grenada, the circumstances would be incomparable; these are young girls who would be unlikely to be able to visit him in Grenada. This was clearly a case of undue harshness.

20. In relation to the test in s117C(6), it was necessary to bear in mind the seriousness of the index offence: *HA (Iraq) v SSHD* [2022] 22; [2022] 1 WLR 3784, at [60]-[61]. The appellant was a 'medium offender' who had only just tipped into the bracket of being a foreign criminal at all. The Tribunal should accept his explanation for the second offence; it was plausible that he had changed his plea in order to secure release. The appellant's deportation would have an impact on the mothers of the children as well. T

could not care for K; that would be unrealistic as she is pregnant and she has her own life. It was also relevant that the appellant provides care for Ms Miller's parents. They would be in difficulty if the appellant was deported.

21. I reserved my decision at the conclusion of the submissions.

## Analysis

22. The appellant is a medium offender who has available to him the statutory exceptions to deportation and[1] the contention in s117C(6) of the 20002 Act, that there are very compelling circumstances over and above those in the exceptions to deportation which suffice to outweigh the public interest in deportation.

23. It is not contended by Ms Reid that the appellant meets the first of those exceptions. Nor could it be. He has not been lawfully resident in the UK for most of his life. He is 37 years old at today's date and he has spent rather less than a decade with a right to remain in the UK. Whilst that suffices to show that the appellant cannot satisfy the first test, it is nevertheless necessary to consider the remaining elements of s117C(4) in order to inform my subsequent analysis of proportionality.

24. There is some evidence of social and cultural integration, not least because of the relationships the appellant has formed in this country. Weighed against that, I take into account the appellant's criminality and his periods without leave to remain. Such conduct might tell against social integration but whether it does so will depend on the facts of the case: *SC (Jamaica) v SSHD* [2022] UKSC 15; [2022] 1 WLR 3190, at [106]. In my judgment, the appellant has not shown on the balance of probabilities that he is socially and culturally integrated to the UK. Whilst I take into account all that has been said by him and on his behalf, and I note that he has formed relationships and undertaken some legitimate work in this country, I consider that his periods without leave and his decision to brandish a large machete after an altercation in a bar suggest a lack of 'acceptance and assumption by the foreign criminal of the culture of the UK, its core values, ideas, customs and social behaviour' (*Binbuga v SSHD* [2019] EWCA Civ 551; [2019] Imm AR 1026, at [57].

25. Ms Reid submits and I accept that the appellant will encounter some obstacles to reintegration on return to Grenada. He has not returned for a number of years and will have fallen out of touch with the way of life there to some extent. A letter from Imperial College Healthcare dated 25 April 2023 shows that he has an undiagnosed gastrointestinal complaint which is under investigation. He also states that he has depression and difficulty sleeping, for which he is prescribed medication. I note from his most recent statement that none of this has prevented him from working in the UK. The appellant says that he has no family in Grenada and that his two children, who may or may not be his biological children, live in the USA. There is no evidence of that, but I proceed on the basis that it is true nevertheless. He says that it was suggested to him in Grenada in the past that he was gay

[1] As a result of [24]-[27] of *NA (Pakistan) v SSHD* [2016] EWCA Civ 662; [2017] 1 WLR 207

but he does not suggest that he is at risk there, merely that he 'did not really fit in' and that it is not a place he wants to live. His statement from January 2022 also suggests that he would find it more difficult to find work because he has lost half of his index finger but, again, that does not appear to have caused him difficulty in obtaining work in the UK. Apart from these comparatively minor matters, there is no reason to think that he would experience very significant obstacles to re-integrating into the country of which is a national.

26. As will be apparent from my summary of the submissions, the focus of the case was on the consequences which would befall the appellant's daughter A and his stepdaughter K in the event of his deportation. I make the following findings about the current family circumstances.

27. The appellant's biological daughter A is 11 years old. She lives with her mother, Ms Williams, at an address in Ladbroke Grove. The appellant was formerly in a long-term relationship with Kalesha Miller and acted as a father figure in the lives of her two daughter, T (now aged 20) and K, who is 10 years old.

28. The picture is rather different from that which presented to the First-tier Tribunal. There is now a restraining order in force, prohibiting the appellant from having any direct or indirect contact with Ms Miller for three years. At the date of the hearing before the FtT, the appellant lived with Ms Miller and with T and K. He can no longer do so because the restraining order prohibits him from having any direct or indirect contact with Ms Miller.

29. The appellant says that he now lives with her mother and father (Mr and Mrs Bartley) at their home in Uxbridge, whilst Ms Miller and T and K live in Hayes. He stated in evidence that he continues to see K every day; he takes her to school every day and brings her back home every evening. He explained in oral evidence that it is possible for him to do so because he makes arrangements directly with K, who has her own mobile phone. He alerts her to his arrival at the house in this way, without needing to have any contact with Ms Miller.

30. I was concerned as I listened to the appellant's oral evidence about the circumstances in which the restraining order came to be made. It was suggested by the appellant that the sentencing judge made the order entirely of his own volition, and certainly not at the request of Ms Miller. I thought that was unlikely, and I was concerned that the existence of that order might shed some light on the truthfulness of the appellant's account of his ability to have contact with K. Ms Ahmed did not take that point in submissions, however, and I consider that to have been the correct decision. The appellant gave a consistent account of his involvement in K's life. His sister was an impressive, forthright witness, who remains friends with Ms Miller, and also gave the same account. In my judgment, the likely truth of the situation is as suggested by Ms Brown; the appellant and Ms Miller were exposed to a great deal of stress, she suffered a miscarriage, and their relationship could not withstand the pressure. She does not wish to see the appellant but she is content for her daughter to do so.

31. There is no medical evidence before me to confirm what I was told about Ms Miller's recent medical history. I was told by the appellant that she has

recently had an operation and that she remains in a wheelchair for much of the time. Ms Brown stated that Ms Miller's operation was for sciatica, plus related problems with her back and legs. Ms Ahmed did not attempt to submit that this was a recent fabrication designed to enhance the claim that K is dependent on the appellant for important assistance. Again, I think that she was correct to adopt that stance. The evidence given by the appellant and his sister was consistent on this point and I am prepared to accept on the balance of probabilities that Ms Miller is often confined to a wheelchair but is able, on better days, to mobilise with the use of crutches. She is currently unable to work and is dependent on public funds. The appellant has taken K to and from school since they were in a relationship and he continues to play that important role now.

32. The appellant also plays an important role in the life of his biological daughter, A. I accept that his role in A's life is as claimed in the oral evidence given by him and his sister. Their evidence is supported by the letters written by A's mother, Ms Williams. I accept that the appellant typically sees his daughter on Tuesdays and Wednesdays and that they also spend the weekends together. He will collect her from school on Tuesday and Wednesday and they will spend time with K before he takes A back to her mother's house. At the weekends, he collects A from school and she spends the whole weekend with him, staying at Mr and Mrs Bartley's house, before he returns her to her mother on Sunday night. They often spend time with K at the weekends as well, as the girls get on well together and are similar ages. There are photographs in the bundle of the appellant spending time with the two girls at various locations. Ms Williams stated in her letter that the appellant is very close to his daughter and that her face 'lights up with excitement' when she learns that the appellant is coming to pick her up.

33. There was some dispute before me over the amount of money that the appellant pays for A's upkeep. He claimed to pay £50 per week and to have given larger sums on occasion. He mentioned paying £500 for a school trip, for example. There is limited evidence in support of these claims, although I note that there is evidence of some money being transferred by bank transfer to Ms Williams. On balance, and given that the appellant has only recently been permitted to resume working, I find it more likely than not that he sends £50 to Ms Williams most weeks. The evidence before me speaks with one voice in describing the appellant as a man who takes his role as a father seriously and I accept that he would want to make financial provision for his daughter if he was able to do so. I note that he was genuinely upset when he was asked whether he could continue to transfer money for A from Grenada. He said that Ms Ahmed was going to 'break my heart with questions like that' and I felt that it was kinder to give the appellant a few moments to regain his composure when he began to cry. He is on any rational view close to his biological daughter, and to K, and I accept that he is very stressed by the threat of deportation. He said, and I accept, that he has been prescribed anti-depressant and sleeping medication to assist him in managing that stress.

34. Although the appellant does not live with A or K, and although he is not K's biological father, I consider that he has a genuine and subsisting parental relationship with both of the girls. Applying the approach required by *SSHD v AB (Jamaica) & AO (Nigeria)* [2019] EWCA Civ 661; [2019] 1 WLR 4541,

the fact that the appellant is not K's biological father is not determinative and what matters is an assessment of the facts as a whole. It is clear in this case that the appellant 'stepped into the shoes of a parent' when he was in a relationship with Ms Miller, and all of the evidence shows that he has continued to play that role to date.

35. Having made those findings of primary fact, it is now necessary to consider whether the appellant is able to satisfy the second exception to deportation by showing that it would be unduly harsh on either A or K for him to deported. The meaning of those deceptively simple words has been considered twice by the Supreme Court, in *KO (Nigeria) & Ors v SSHD* [2018] UKSC 53; [2018] 1 WLR 5273 and SSHD v HA (Iraq) & Ors [2022] UKSC 22; [2022] 1 WLR 3784.

36. What emerges from the judgment of Lord Hamblen in the latter case is that the correct approach is to follow the guidance which was stated to be "authoritative" in *KO (Nigeria)*, namely the direction in the Upper Tribunal case of *MK (Sierra Leone) v SSHD* [2015] INLR 563 ("MK"). That direction said: "… 'unduly harsh does not equate with uncomfortable, inconvenient, undesirable or merely difficult. Rather, it poses a considerably more elevated threshold. 'Harsh' in this context, denotes something severe, or bleak. It is the antithesis of pleasant or comfortable. Furthermore, the addition of the adverb 'unduly' raises an already elevated standard still higher". This recognises both that the level of harshness which is "acceptable" or "justifiable" is elevated in the context of the public interest in the deportation of foreign criminals and that "unduly" raises that standard still higher. It is then for the tribunal to make an evaluative judgment as to whether that elevated standard has been met on the facts and circumstances of the case before it. What is not required is to compare the level of harshness against a 'notional comparator' baseline, because there are too many variables in the supposed baseline characteristics for any comparison to be workable, and because such an approach is potentially inconsistent with the statutory duty to have regard to the "best interests" of the affected child.

37. I accept that A will be distraught in the event that her father is deported. He is a very regular presence in her life and their closeness is attested by Ms Williams, Ms Brown and by various other individuals who have written supporting letters for the purpose of this appeal. The appellant's deportation will also remove the financial support which he is currently able to provide to Ms Williams for A. Although I have already found that he will be able to find work in Grenada, I think it unlikely that he will be able to continue meeting this commitment without at least some short-term disruption. The appellant's contact with A will be reduced from staying contact every weekend and face-to-face contact during the week to 'modern means of communication' such as video calling, which is little or no substitute for physical contact between a parent and child of this age.

38. I have no evidence about Ms Williams' ability to manage without the money which the appellant remits. The email she sent to him in May evinces a degree of frustration on her part about the appellant's inability to set up a regular electronic payment. It would be speculation on my part, however, to suggest that she would be in difficulty providing for A without his assistance. The reality is that she has done so in the past, when the

appellant was in prison and when he was not permitted to work, and it is more likely than not that she is able to manage without that support. A is seemingly healthy. She will continue to live with her mother in the event of A's deportation. She will continue to attend the same school. I was told, and I accept, that she was upset when the appellant was previously in prison. She was told that he was away with his work. As Ms Reid notes, these were not long periods but there is nothing before me to suggest that A's studies suffered, or that she suffered behavioural problems whilst her father was 'away'. A's best interests would obviously be served by the appellant remaining in the UK and by his continuing to play the same role in her life, but there is no evidence before me which would permit me to conclude that the opposite course would meet the 'elevated standard' endorsed by the Supreme Court.

39. I reach a similar conclusion in respect of K. I suspect that her distress at being separated from A will actually be rather more acute than that which A will experience. That is because K lived with the appellant as an older child and has come to depend upon him as a father figure in her life. She and her sister have both explained that in documents which are before me. It seems that neither of them has any relationship with their own father. It is clear that the appellant became, and remains, very close to them, despite the fact that his relationship with their mother has come to an end. K will miss him very much in the event that he is deported. In her case, there is the additional complication of Ms Miller's disability. I accept that she is a wheelchair user who is only occasionally able to mobilise with the use of crutches, since she is recovering from surgery.

40. In the event of the appellant's deportation, alternative arrangements will need to be made to take K to and from school. The letter from the Deputy Head Teacher dated 28 April 2023 states that the appellant 'is the only family member that is able to support the family with the school run and, if he was not around, there would be a significant negative impact on [K]'s education and future potential'. That statement caused Ms Ahmed to ask why K's older sister cannot assist. The appellant's answer was that T (who is aged 22) likes to party and to stay out late and that she has recently fallen pregnant. There is no reliable evidence before me to show that T would not assist if she was required to do so, however. She lives with Ms Miller and K. The appellant walks K to school and I am unable to accept that T would not do so in the event that the appellant was no longer around. The appellant stated in oral evidence that Ms Miller has one brother and four sisters. He suggested that most of her sisters were in Jamaica or that they 'come and go' between the two countries. Her brother lives in the 'countryside' near Birmingham, he added. There is insufficient evidence before me to establish that these individuals are not able to assist Ms Miller whilst she recovers from her operation.

41. I do not accept that the appellant's deportation will have a 'significant negative impact' on K's education and future potential. She will be distressed by his deportation but, as with her friend A, the evidence before me does not justify a conclusion that the elevated standard endorsed by the Supreme Court is met in her case.

42. It is nevertheless necessary to consider whether there are very compelling circumstances over and above those in the two statutory exceptions so as

to outweigh the public interest in deportation. In considering that question, I have been assisted by the skeleton argument prepared by Ms Reid for the hearing before the FtT and by the submissions made by both advocates before me at the resumed hearing. It is well established that the analysis required by s117C(6) is a holistic one which encompasses the factors set out by the Strasbourg court in cases such as *Unuane v United Kingdom* (2021) 72 EHRR 24, *Boultif v Switzerland* (2001) 33 EHRR 50 and *Üner v The Netherlands* (2006) 45 EHRR 14. The analysis which follows addresses those factors, which were set out by Lord Hamblen underneath [51] of his judgment in *HA (Iraq)*.

43. In relation to the nature and seriousness of the offences committed by the appellant, I largely accept the submissions made by Ms Reid. S117C(2) shows that the public interest in the deportation of foreign offenders is not a fixity; the more serious the offence, the greater is the public interest in deportation. The appellant's first offence attracted a sentence which only just satisfied the statutory definition of a foreign criminal. By reference to the length of the sentence (that being the surest guide to the seriousness of the offence: *HA (Iraq)* refers, at [67]), this was not the most serious of offences. *HA (Iraq)* also shows that it is relevant to have regard to the nature of the offence, which I do, by noting that it was an offence of threatening violence with a weapon after an argument in a bar.

44. The appellant's second offence was also not a particularly serious one. I accept his version of events in relation to that offence. He had a disagreement with Ms Miller whilst he was renovating their house and the police were called. He was found outside the property with a Stanley knife in his work belt and was charged with possession of a bladed article in a public place. I note that his account (which he gave before the sentencing remarks were available to me) chimes with the judge's suggestion that he should keep his tools in a toolbox in the future. Ms Ahmed asked why the appellant had pleaded guilty to this offence if he had such an obvious explanation for the knife. He said and, having read the sentencing remarks, I accept, that he had been held for that offence for some considerable time and he had been advised that he would be released more quickly if he pleaded guilty to that offence. That account seems likely and is supported by the sentencing judge's observations about the amount of time that the appellant had been held. This was certainly not the most serious of offences, and it would not have resulted in a 'foreign criminal' designation had it been the index offence.

45. I also take into account the fact that the appellant pleaded guilty to both offences, albeit at a comparatively late stage. The fact that he entered a guilty plea is relevant to the public interest for the reasons given at [66]-[69] of *HA (Iraq)*.

46. The appellant has been in the United Kingdom since he re-entered in December 2015. He was released after his first sentence and he committed a further offence whilst he was on licence, although I accept (as above) that neither was particularly serious. He was thought at the time of his first offence to present a low risk of reoffending and I proceed on the basis that the second offence could not rationally lead the Probation Service to reach a different conclusion, for the reasons I have set out above.

47. I have dealt at some length already with the appellant's family circumstances. I accept that the best interests of A and K would be served by the maintenance of the status quo but for the reasons I have set out above, this is not a case in which their best interests press overwhelmingly in favour of that course. I accept that the appellant's deportation will place additional strain on Ms Miller and Ms Williams. Also relevant at this stage of my enquiry are the other relationships described in the written and oral evidence. I accept that the appellant retains a close relationship with Ms Miller's other daughter, T, for whom he was a father figure during her teenage years. She is now a young adult, and seemingly pregnant, and she will miss the appellant in the event of his deportation. I also note that the appellant lives with Ms Miller's mother and father. I have read the short letters that they wrote in support of the appellant. Mrs Bartley is said to be infirm to some extent but there is no medical evidence of that, nor did the appellant give very much evidence of how he helps her in practice and in a way which her own husband could not replicate. Whilst I accept that they are likely to be relatively elderly, the evidence before me does not establish that the appellant's deportation would have any consequences for them beyond the obvious upset of losing someone of whom they have become quite fond.

48. The appellant will himself experience some difficulties on return to Grenada and he has developed ties with the United Kingdom. The appellant's private life was established at a time when his immigration status in the United Kingdom was precarious, however, and I am required to have regard to the normative statement in s117B(5) NIAA 2002 as a result. I take full account of those private life considerations in the balancing exercise which follows.

49. Drawing the threads of that analysis together, I find as follows. The appellant is a foreign criminal and there is a cogent public interest in his deportation for that reason. That public interest is recognised in statute and applies by reason of his designation as a foreign criminal, as defined. Great weight should generally be given to the public interest in the deportation of a foreign offender who has received a custodial sentence of more than 12 months: *Hesham Ali v SSHD* [2016] UKSC 60; [2016] 1 WLR 4799, at [46].

50. The appellant has committed two offences. The first was more serious than the second but neither was particularly serious, as shown by the sentences imposed. The appellant was previously said to be a low risk of reoffending and the second offence does not cause me to depart from that assessment. The public interest in the appellant's deportation is not at the strongest end of the spectrum but it is a multi-faceted one, as explained at [38]-[44] of *Zulfiqar v SSHD* [2022] EWCA Civ 492; [2022] 1 WLR 3339. On any proper view, the public interest in the appellant leaving the United Kingdom is of an entirely different order to that which obtained when Judge Haria considered the appellant's appeal.

51. Against that, I weigh the private and family life considerations which are at stake, taking account of the rights of the appellant and other individuals to whom I have referred. The appellant does not have a current relationship with a partner but he has a close relationship with his daughter A and his stepdaughter K. He also continues to play a role in the life of his adult

stepdaughter T. His deportation will be contrary to A and K's best interests but it will not be unduly harsh upon them, for the reasons I have set out in some detail. His deportation will leave a void in their lives and it will cause some difficulty for others, in particular K's mother and Mrs Bartley. Although I take full account of all of those consequences, I am unable to find that there are very compelling circumstances which suffice to overcome to the public interest in deportation, as calibrated above. The upset and disruption which will be caused by the appellant's deportation does not amount to the 'very strong claim indeed' which is required to outweigh public interest in that course.

**Notice of Decision**

The decision of the First-tier Tribunal having been set aside, I remake the decision on the appeal by dismissing it.

**M.J.Blundell**

Judge of the Upper Tribunal,
Immigration and Asylum Chamber

9 October 2023