



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

Case No: UI-2024-001841  
First tier number: PA/01313/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

**On 6<sup>th</sup> of November 2024**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**Secretary of State for the Home Department**

**Appellant**

**and**

**FA**  
**(ANONYMITY ORDER MADE)**

**Respondent**

**Representation:**

For the Appellant: Ms Blackburn, Senior Presenting Officer  
For the Respondent: Mr Lams

Heard at Phoenix House (Bradford) on 1 November 2024

**DECISION AND REASONS**

1. I shall refer to the appellant as the respondent and to the respondent as the appellant as they respectively appeared before the First-tier Tribunal.
2. The appellant is a citizen of Algeria born on 1 December 1998. He appealed to the First-tier Tribunal against the respondent's decision of 9 October 2023 to refuse his Asylum and Human Rights claim following the respondent's refusal to revoke a Deportation Order signed on 2 June 2020. The First-tier Tribunal allowed his appeal. The Secretary of State now appeals to the Upper Tribunal.
3. Permission was granted on Ground 1 only. Granting permission, Upper Tribunal Judge Reeds wrote:

The grounds are arguable of the failure to consider all the evidence relevant to the assessment

of the seriousness of the crimes committed, which included the recent offence of 18 months

and the general offending background alongside evidence in the Oasy's report, and the sentencing remarks which referred to the aggravating features also relevant to consideration of whether this was a "serious crime" and the matters relied upon by the respondent set out in the decision letter between paragraphs 60 - 80. Whilst length of sentence is not the only relevant consideration, I observe that the FtTJ's reference to the appellant being convicted of a sentence of less than 12 months does not appear to be consistent with the sentencing remarks which provided 4 months for the 1st burglary and 12 months for the 2nd burglary, with 2 months to be served consecutively for the breaches of the community orders made providing for a sentence of 18 months imprisonment.

4. Ms Blackburn, for the Secretary of State, relied upon the grounds of appeal. She made no additional submissions.
5. Mr Lams, for the appellant, submitted that the judge had not erred in law. By the statutory definition of 'serious crime' in force at the material time of the appellant's offending (the Nationality Immigration and Borders Act 2022, which came into force on 28 June 2022), the appellant had not crossed the threshold of 24 months even if the appellant's sentences were aggregated which, he submitted, they should not in any event be as provided for by section 72 (11) (ia) of the 2002 Act.
6. Ms Blackburn did not seek to disagree with the submissions of Mr Lams. Having considered the relevant statutory provisions, I agree that Mr Lams has set out the law accurately. For the reasons he gives, the First-tier Tribunal did not fall into legal error in the manner Upper Tribunal Judge Reeds considered arguable when granting permission to appeal. Accordingly, I dismiss the Secretary of State's appeal.

### **Notice of Decision**

The Secretary of State's appeal is dismissed.

**C. N. Lane**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Dated: 1 November 2024**