Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00967/2020 (V)

THE IMMIGRATION ACTS

Heard at Bradford by Skype for business	**Decision & Reasons Promulgated**
On 6 November 2020	**On 12 November 2020**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

MA (ANONYMITY DIRECTION MADE)

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Janjua, solicitor instructed on behalf of the appellant
For the Respondent: Mr Diwnycz, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellant appeals with permission against the decision of the First-tier Tribunal (Judge Barker) (hereinafter referred to as the "FtTJ") who dismissed his protection appeal in a decision promulgated on the 7 September 2020.

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. In the light of the COVID-19 pandemic the Upper Tribunal issued directions, inter alia, indicating that it was provisionally of the view that the error of law issue could be determined without a face to face hearing 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.

4. The hearing took place on 6 November 2020, by means of *Skype for Business*. 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. I conducted the hearing from court at Bradford IAC. The advocates attended remotely via video as did the appellant. There were no issues regarding sound, and no substantial technical problems were encountered during the hearing and I am satisfied both advocates were able to make their respective cases by the chosen means.

5. I am grateful to Mr Janjua and Mr Diwnycz for their clear oral submissions.

Background:

6. The appellant's immigration history and claim are summarised in the decision of the FtTJ.

7. The appellant is an Iraqi citizen of Kurdish ethnicity from xxx in Sulaymaniyah. He entered the United Kingdom clandestinely on 5 March 2018 and claimed asylum on 6 March 2018. His claim was refused by the Secretary of State in a decision letter dated 1 August 2018.

8. The appellant appealed that decision, and the appeal came before the FtT (Judge Phull) on 6 September 2018.

9. The basis of the factual claim made by the appellant is set out in the decision of Judge Phull and exhibited in the respondent's bundle at "B".

10. The appellant lived in the IKR along with his parents, two sisters and a brother. He was a student and also worked with his father, as a labourer.

11. He set out that his fear was of the Kurdish Democratic Party (hereinafter referred to as the "KDP"). On 5 January 2018 his friend R, introduced him to BS, a high-ranking man in the Patriotic Union Party ("PUK"). The man identified as R used to be BS's bodyguard. The appellant wanted to work as a bodyguard for BS and asked him for a salaried job. BS agreed to find him work and they exchanged details. Two days later BS called him with an offer of an illegal job and asked him to collect a letter from the KDP member, F, to give it to him. The appellant agreed to do the job.

12. The appellant met F and was given a letter for BS which he was told was top secret. The appellant delivered the letter to BS the same day and was paid $1500 for the job. Two days later he was given another job to pick up a letter from F. He delivered the letter to BS who paid another $1500 plus $100 in tips.

13. The next day the appellant received a call from R who told him that F had been arrested and had given the appellant's name to the authorities. BS told him to hide. He went to his friend's house and shouted there hiding for 5 to 7 days. R told him that BS would pay for his journey to leave the country. He was taken to the airport and he flew to Turkey with the assistance of an agent and then to the UK. The agent took his passport and said he would return it to his family.

14. The appellant claimed that if returned to Iraq his life would be at risk from the KDP .

<u>The first decision of FtTJ Phull:</u>

15. The FtTJ set out his findings of fact and assessment of the evidence at paragraphs [18]-[24].

16. The factual findings can be summarised as follows:

    (1) The FtTJ accepted that he was an Iraqi national of Kurdish ethnicity from Sulaymaniyah.

    (2) Beyond that, the FtTJ did not find the appellant had given a credible account.

    (3) The judge took into account the appellant's evidence that he was a student and that it helped his father as a labourer and that he had no work experience as a bodyguard, nor has he undertaken any training for that role. The FtTJ did not accept that it was credible that a high-ranking person of the PUK considered him for a role of bodyguard given that he had no prior experience or training for such a role (at [21]).

    (4) The judge rejected his account that he carried out a illegal work for BS on the basis that a high-ranking official of the PUK would not reasonably likely entrust the task of picking up letters that

were top secret to an ordinary civilian with no experience of such a role.

(5) The judge therefore rejected his account that he collected letters for BS from a KDP member.

(6) The judge therefore found that he was not of adverse interest to the KDP in Iraq.

(7) The judge considered his factual history and that he remained in Sulaymaniyah at his friend's house in hiding for 5 to 7 days before he left the country. The judge found that he was able to stay at his friend's house for a number of days before he left the country without attracting adverse attention because he was not a person of any interest.

(8) The judge found that he uses own passport to leave the IKR and then Baghdad which demonstrated that there was nothing in his profile that could have alerted the Iraqi authorities at the airport. He was able to pass through airport controls because he was not a person of interest to the KDP.

(9) The judge rejected his claim that he was falsely accused of being a spy for the PUK and therefore attracting adverse attention of the KDP (at [24]).

17. The FtTJ went on to consider return to the IKR and Baghdad. The judge had regard to the relevant decisions (*AA (Iraq)* [2017] EWCA Civ 944 and also *AAH (Iraq).* The judge noted that he originated from Sulaymaniyah in the IKR and that he would be returned to Erbil in the IKR, a non-contested area and where the PUK are in control (CPIN 2017).

18. The appellant's evidence was that he had no contact with his family and did not want to contact them because he feared for his safety. The judge had given reasons why he had rejected his account that he would be at risk from the KDP and also did not accept his account that he was not in contact with his family because the Kurdish authorities may be monitoring them. The judge found that he was in contact with his family because it was "inconceivable that he would not have contacted them to tell them that he had arrived safely in the UK." Furthermore, the judge took into account his interview record in which he said he had travelled to Turkey using his own Iraqi passport and that the agent had "took it back to my family. He said he would return it to my family, he was angry with me" (question 168). The judge found there was no suggestion that the appellant did believe the agent or report the passport was stolen and it is interview had also spoken to his brother when he left Iraq. Thus, the judge found that the appellant knew that the agent had taken his passport back to his family and furthermore that his CSID document was at the home of his parents. The judge found that he could contact his brother as he done previously to request a copy of his CS ID document/passport be

sent to him and that if he could not return to the IKR directly, he could return to the IKR via Baghdad once he is in possession of his CSID and passport.

19. The judge also found that he could return to Erbil or Sulaymania where as an ordinary citizen he would receive the same level of protection and could turn his family for support. His previously worked there and studied it could take up the same work again with his father.

20. The FtTJ therefore dismissed his appeal.

21. He sought permission to appeal that decision, but permission was refused by the First-tier Tribunal on 9 November 2018 and also by the Upper Tribunal on 28 January 2019. Thus, by 4 February 2019 he was appeal rights exhausted.

The Further submissions:

22. On 21 November 2019, the appellant submitted further submissions as a fresh claim.

23. They are set out in the respondent's bundle at "C". The letter stated that the appellant "maintained he fears the authorities in Iraq and members of the KTP and the PUK… Maintained that his fear is genuine, and he did not fabricate a story for the purpose of claiming asylum… He still maintains he worked as a bodyguard for BS who was a senior PUK official".

24. The documents in support of his fresh claim consisted of a witness statement from his father, and a document described as "Amnesty International report with translation" and some further articles and reports relating to Iraq. The further submissions asserted that the appellant had obtained new evidence that directly rebutted the presumption of the judge which was a report from Amnesty International Iraq who would confirm that the appellant was at risk upon return and that he was accused of being a spy and handling illegal documents for BS. It was stated that the evidence was consistent with his claim that he worked as a bodyguard who was a high-ranking PUK member and that the KTP were looking for invite harassing his family members. The further submissions state "the document has been sent to him by his family".

25. The further submissions also referred to an updated witness statement from the appellant that he was at risk upon return from the KTP, PUK and Al Hash Al Shaabi.

26. In terms of relocation he said he could not speak Arabic and that the Shia Muslim militia controlled large swathes of Iraq. Further background evidence was cited in the further submissions.

27. Those further submissions were refused in a decision letter dated 16 January 2020.

28. The decision set out the previous factual findings made by FtTJ Phull and that in a very careful and detailed decision, the judge properly analysed all the relevant evidence but was not prepared to accept that he had been threatened or there was any risk of harm from the KDP and that he could return to Iraq. The decision then went on to consider the further evidence since that decision and in particular the documentary evidence that the appellant relied upon at [17] and in the context of the decision in *Tanveer Ahmed*. A number of reasons were given for reaching the conclusion that little weight should be attached to those documents. In particular, there was no independent evidence that they were official documents from within Iraq, a search had been undertaken in January 2020 it was noted that the website that was given on the documents provided no contents. As further noted that the documents had been stamped with the words "Amnesty International Iraq and Kurdistan" alongside a symbol of the candle wrapped in wire, the symbol recognised as a symbol for Amnesty International although there is no known affiliation between the two websites. Furthermore, when the respondent conducted a search for the director with the name given, the director was not listed within the Amnesty website.

29. The appellant's sur place claim was also considered at [23 – 25]

30. Consideration was also given to Article 15 (c) in the light of the country guidance decision in SMO, KSP and IM (Article 15(c);identity documents) Iraq CG [20199] UKUT 00400 Specific consideration was given to documentation and feasibility of return (excluding the IKR) and internal relocation within Iraq including the IKR. His claim was therefore refused on all grounds.

31. The appellant lodged grounds of appeal against that decision.

The second decision; FtTJ Barker:

32. A case management review was held on 24 June 2020. At paragraph (e) reference was made for time granted to the appellant's representatives to file and serve a verification report relating to the report from Amnesty International Iraq -Kurdistan. There is no report in the papers.

33. The appeal came before the FtTJ on the 28 August 2020 and in the decision promulgated on 7 September 2020 his appeal was dismissed.

34. The FtTJ set out his analysis of the evidence and his findings of fact at paragraphs [39 – 111] on all issues. In that analysis he set out the previous findings made by Judge Phull noting that they were the

"starting point" but that in this case there was fresh evidence which he was required to consider. He undertook a careful analysis of that material, which included documentary evidence that was said to emanate from Kurdistan (Amnesty International Iraq – Kurdistan) and evidence from his father. Having considered that evidence in the light of the oral evidence of the appellant and the other documentary evidence, he reached the conclusions at paragraphs [60 – 75] that the documents lacked "credibility and reliability".

35. The FtTJ also noted that he claimed to be at risk on return from the PUK as well as the KDP a claim which the judge found to be a new claim and had not been referred to before (see [76 – 77]).

36. The FtTJ concluded at [78] that the appellant was not at risk on return as a result of any activity undertaken in Iraq and did not accept, to the lower standard, the appellant worked for the PUK or is at risk from them or any other authority in Iraq as a result.

37. At paragraphs [79]-[94] the FtTJ set out his analysis of the appellant's sur place claim. The FtTJ concluded that on the evidence he was not satisfied that those activities, in the form of Facebook postings and attendance of three demonstrations was sufficient to indicate that the authorities in Iraq would have any knowledge of the appellant, or interest in him as a result.

38. As to return to Iraq and considering the CG in *SMO* (as cited) in terms of documentation to assist return, the appellant accepted in evidence that his Iraqi passport was at his home with his parents. He had recent contact with his father to obtain the documents in support of the claim and that he had not lost contact with them. Given that he had a contact with his family the judge found that he could obtain his passport with relative ease and could thus obtain a CSID card within a reasonable time. Other findings were also made in respect of return.

39. The FtTJ therefore dismissed his appeal.

40. Permission to appeal was issued and permission was granted on the 25 September 2020 by FtTJ Nightingale.

<u>The hearing before the Upper Tribunal:</u>

41. Mr Janjua on behalf of the appellant relied upon the written grounds of appeal. There were no further written submissions on behalf of the appellant.

42. No Rule 24 response was filed on behalf of the respondent. I also heard oral submission from the advocates, and I am grateful for their assistance.

<u>Decision on error of law:</u>

43. It is not necessary to set out the submissions of each of the parties in full as I will set out the relevant aspects of those submissions when dealing with the grounds advanced on behalf of the appellant and my consideration of those issues.

44. There are two grounds advanced on behalf of the appellant.

Ground 1:

45. Dealing with ground 1, Mr Janjua relied upon the written grounds. The grounds submit that the judge erred in consideration of the appellant's evidence.

46. In particular at [65] the judge considered the report relied upon by the appellant referred to as the "Amnesty International Iraq Kurdistan". The grounds set out that at [65] the judge found the document to be unreliable because he said "it is not produced by anyone from the organisation, and does not come with any covering letter or statement explaining the details of precisely investigation or enquiry they carried out".

47. The grounds assert that the document was dated and signed by NA who is a director of Amnesty Kurdistan. Furthermore, the evidence provided a committee of seven members who investigated the appellant's matter.

48. The grounds go on to state that the assessment made at [66] was in error. The judge stated "even if the report itself is legitimate, the complaint comes wholly from the account of the appellant's father. In my view there are inconsistencies in the evidence which me that I cannot accept the appellant's father's account to Amnesty International Iraq – Kurdistan as accurate." However, the grounds submit that the evidence from Amnesty Kurdistan states that the committee was created in order to investigate the case and resolve it. The evidence states that the case exists, and the speeches were correct. In a letter from Amnesty Kurdistan dated 3/2/20 it states that the problems have still not been resolved.

49. Therefore, it is submitted on behalf of the appellant he provided all evidence that was available to substantiate his claim and the judge failed to place any weight on the evidence provided and also applied a higher standard when assessing that evidence.

50. In his oral submissions Mr Janjua submitted that the judge was wrong in his findings and that he had not appreciated that the document was signed, and that email contact had been provided. He submitted that there was reference at [71] in the decision that there was limited information but that there was a name and signature of the men who investigated the matter. He submitted that there was a material error

of law which rendered the whole decision unsafe and that it should be remitted to the FtT.

51. He further submitted that whilst he accepted the decision of Devaseelan, this was a fresh claim and because the SSHD had accepted it as a fresh claim under paragraph 353 there was a realistic prospect of success.

52. Mr Diwncyz made reference to the document and submitted that it did not look as if there had been a signature and that what was on the document could have been the signature of the translator.

53. I have carefully considered both the written and oral submissions made on behalf of the appellant. Having done so, I am not satisfied that the decision of the FtTJ discloses the making of an error on a point of law in the way that the grounds assert. I will set out my reasons for reaching that view.

54. The FtTJ made reference to the fresh material which was before the Tribunal at [55]. At [59] he returned to the issue of the fresh evidence and in particular recited the further information contained in the document from Amnesty international Iraq – Kurdistan. At [60-62] the FtTJ highlighted the significance of this material and the document headed "final report" which detailed the complaint made by the appellant's father recorded on 27 November 2018 (see report dated 3/2/19) and set out what the report had stated. The judge said as follows "it details that the appellant's father's life, along with that of his wife, have been threatened by the parties of Kurdistan because his son worked with BS, a powerful person in the PUK, and specifically delivered a secret letter from a member of the KDP to BS. When the member of the KDP who wrote the letter was arrested, he named the appellant the authorities and as a result the appellant has been threatened with arrest and killing by Erbil security and the KDP and the PUK, and because of the risk of the appellant giving BS's name if arrested, the appellant was also at risk of death from him. The report goes on to say that after the appellant left Iraq, his father's home was attacked and be has threatened him a lot. The report concludes stating that Amnesty International Iraq – Kurdistan have investigated this claim and ask the Iraqi authorities and Kurdistan regional government to protect the appellant's father and his family. It states the life of the appellant and his wife are in danger as a result of the threats from the PUK and the KDP."

55. It is not submitted by Mr Janjua on behalf of the appellant that the judge inaccurately or misstated that evidence.

56. At [64 – 74] the FtTJ gave reasons as to why he concluded at [75] that the documents relied upon lacked "credibility and reliability". As can be seen by the decision when read as a whole, the judge gave a number of reasons as to why that documentary evidence was

unreliable. The grounds only appear to challenge the findings at [65]-[66].

57. The challenge to paragraphs [65] and [66]is that at [65]the judge had stated that the document had not been produced by anyone from the organisation, did not come with a covering letter or statement explaining the details of precisely what was investigated or the enquiries they carried out. It is submitted that the document had been dated and signed by NA, who is a director of Amnesty Kurdistan and there was also evidence which showed a committee of seven members who investigated the appellant's matter. In respect of [66] the grounds criticised the finding made by the judge where he stated that "even if the report itself is legitimate, the complaint comes wholly from the account of the appellant's father. In my view there are inconsistencies in the evidence which mean that I cannot accept the appellant's father's account to Amnesty International Iraq – Kurdistan as accurate". The ground state that the evidence from Amnesty Kurdistan had stated that a committee was created in order to investigate the case and resolve it and that the further letter 3/220 stated that the problems and still not been resolved.

58. However, the grounds wholly ignore the findings of the FtTJ and his assessment of the documentary evidence in a number of important respects.

59. The full assessment is undertaken at [64]-[74] and in my judgement was wholly consistent with the decision of *Tanveer Ahmed*. The FtTJ considered the reliability of the document in the light of its contents and in the round and with the other evidence including that given by the appellant and his father.

60. Whilst the report does have the name of NA on the document at the bottom and there is a document with what is said to be a number of other individuals calling themselves the committee, it does not undermine the other findings at [65]. The documents do not explain or give details of precisely the investigation was carried out or the nature of the enquiries that were carried out. I cannot accept the submission made on behalf of the appellant that the document stated that the committee was created in order to investigate the case and resolve it and that a further letter dated 3/2/20 stated the problem still not been resolved. That wholly ignores the point made by the judge that no details were given any explanation as to what precisely they had investigated or the nature of the enquiries that they carried out. At [71] the judge returned to this issue observing that he was concerned about the investigation and the report because they were "vague and lacking any detail". The judge stated "I have been provided with no detail of how the organisation carried out any such investigation, other than the limited information provided in the report. There is nothing to demonstrate that the organisation is that any more than record the complaint of the appellant's father in

drawing conclusions from it. This further affects the way that I can attach the report relied on by the appellant." In my judgement, that was a finding wholly open to the judge to make when making an assessment of the documents.

61. The grounds also ignore the other findings made by the judge.

62. At [66] the FtTJ found that the complaint came wholly from the account of the appellant's father and that in his view there were "inconsistencies in the evidence" which meant he could not accept the appellant's father's account to Amnesty International Iraq – Kurdistan is accurate. He set out those inconsistencies at [67 – 69]. In reaching his conclusions he considered the letter from the appellant's father that was sent in support of the further submissions on 21 November 2019. In that letter it stated that the appellant's father "has suffered greatly in the hands of the authority" and "had no choice but to contact the human rights organisation on 27/11/2018 and made a complaint" (see Annex D). The judge did not consider that report in isolation but considered it in the context of the evidence that was elicited in cross-examination of the appellant. As recorded at [67] the appellant was cross examined by the presenting officer, but he gave no account of any suffering by his father. The judge recorded that the appellant was specifically asked a number of times if the complaint by his father had led to any problems, but the appellant had denied this saying that the authorities' problems with him not family. Even though it was clarified in re-examination the appellant's evidence as recorded by the judge was that he maintained that the only problem his family had since his exit from Iraq that the authorities "harassed them" trying to find the appellant, but he clearly said that his family had not suffered any problems themselves just that the authorities continue to look to the appellant and told his family that they would kill the appellant if returned to Iraq. The judge therefore concluded that "the evidence was clear that as far as the appellant was concerned, his family received no direct threats themselves, either in as a result of the appellant's actions or because of the report to Amnesty International Iraq – Kurdistan."

63. At [68] the judge considered that evidence given by the appellant in the light of the evidence in the appellant's father's statement and that in the document from Amnesty international Kurdistan. He found "I do not find it credible that if the appellant's father and other family members had suffered at the hands of the authorities, they would not have told the appellant this. The appellant is concerned only with the risk he poses from the authorities and does not rely on any risk or claims that his family are under, in fact he made it clear to me in evidence that there is no risk to his family as the person the authorities seek is him and him alone." It is plain from that paragraph that the judge was highlighting the inconsistency between the appellant's evidence and that in the account given by his father in the written evidence. At [69] the judge also made a finding that there was

no detail as to how he had "suffered greatly" at the hands of the authorities and that given that the appellant was in touch with his father, that evidence could have been obtained with relative ease. Those were findings that were open to the judge having considered the documentary evidence in the light of the oral evidence given by the appellant. That was an entirely permissible approach to the evidence.

64. At [72] the judge also considered evidence given by the appellant himself which damaged the reliability of the report. Whilst the judge accepted that the appellant was not a party to the investigation and does not appear to have been contacted by them which the judge found to be concerning. Furthermore, he did not accept claim by the appellant that an organisation such as Amnesty International would simply approach the PUK or the KDP or any other authority in Iraq and accuse them of wanting to kill the appellant. The judge found that on the evidence before him, could not find that those same authorities (that is, KDP or the PUK) has confirmed to Iraq – Kurdistan that it was their intention to kill the appellant.

65. The judge also highlighted further discrepancies in the report at [74] where the report concluded by saying that the "appellant and his wife at risk the authorities in Iraq", the judge assumed that they are fact that the appellant's father and his wife because the appellant himself did not have a wife in Iraq or anywhere else. At [73] the judge also highlighted a further inconsistency between the appellant's evidence and that recorded in the documentary evidence.

66. There is no merit in the submission that because the respondent accepted this as a fresh claim that this was bound to succeed or had realistic prospects of success in the way that Mr Janjua submitted. The fact that the fresh evidence resulted in a hearing before the FtTJ was not a concession as to its merits but to give the opportunity for a hearing before a judge who was to assess that evidence and make a decision upon that evidence. That was precisely what the FtTJ undertook during the hearing of this appeal and his assessment and analysis of the evidence as a whole.

67. Consequently, when those paragraphs are read together and in the light of the documents that were before the FtTJ, I am satisfied that the judge gave adequate and sustainable reasons consistent with the decision in *Tanveer Ahmed,* as to why the documents were unreliable and that he could not place weight upon them. I am satisfied that is no error of law in his approach to that evidence.

Ground 2:

68. As to ground 2, it is submitted that the FtTJ has not considered the evidence in the round and that he placed undue weight on the fact that the appellant's previous asylum claim and the inconsistencies

outlined in the previous judgement despite the fact that the crux of the case was broadly consistent. Thus, it is submitted that the judge failed to give an independent decision impartial from the previous determination.

69. It is submitted that the appellant gave an account was broadly consistent with the background evidence and that the judge had failed not properly follow the guidance in the case of Chiver which is cited at paragraph 3 of the written grounds.

70. In summary it was submitted that the judge made material errors of law and did not give “anxious scrutiny” to the factual account and the evidence provided.

71. As Mr Janjua submitted, the second ground relies on the first ground and that if the Tribunal did not accept there was any error of law on the basis of the first ground, then the second ground could not realistically succeed. I am satisfied that is the position. In the light of my conclusion that the FtTJ was entitled to reach the findings he did in respect of the documentary evidence said to emanate from Iraq, which was the fresh evidence relied upon, then it must follow that his assessment overall was one that was open to him to make.

72. In my judgement it is plain from reading the decision that the FtTJ began his consideration with the findings made by the previous judge and that they were his “starting point” which is entirely consistent with the guidance given in the case of *Devaseelan(second appeals – ECHR-extraterritorial effect) Sri Lanka* [2002] UKIAT 00702. The FtTJ lawfully directed himself to that decision at [51] and further observed at [52]-[53] that” there will be occasional cases where the circumstances surrounding the first appeal was such that the second Tribunal to look at the matter as if the first determination ever been made” and also that in accordance with those guidelines and as counsel then appearing for the appellant accepted, that the findings were the starting point but “I am of course not bound by them” (see paragraph 53]].

73. In my judgement his approach to the appeal was entirely lawful and consistent with the case law. At [54]-[59] the FtTJ then set out the fresh evidence that was relied upon by the appellant and then went on to consider that the substantively within his decision. As I have set out above, the judge gave adequate and sustainable reasons for reaching the overall conclusion at [75] that the documents lacked credibility and reliability and thus his decision at [78] that they did not undermine the previous credibility findings made was a decision that was wholly open to him to make. Despite the claim on the grounds that the judge applied a “higher standard of proof” that is not demonstrated by careful reading of the report and it is further plain that the judge properly considered the evidence “in the round” before he reached his findings of fact.

74. The FtTJ went on to consider the appellant's evidence in relation to his sur place activities at [79 – 96]. Those findings of fact and assessment have not been challenged in the grounds nor has the assessment made of return in light of the country guidance case of SMO, see [99 – 109].

75. For those reasons, I am not satisfied that it has been demonstrated that the decision of the FtTJ did involve the making of an error on a point of law. The decision of the FtT shall stand.

Notice of Decision

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

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

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.

Signed Upper Tribunal Judge Reeds

Dated 9 November 2020

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.