IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-000904

First-tier Tribunal No:
PA/50393/2022; LP/00465/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 1 August 2023

Before

UPPER TRIBUNAL JUDGE SMITH

Between

M H
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms M Sardar, Counsel instructed by Danielle Cohen Solicitors
For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

Heard at Field House on Friday 7 July 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

BACKGROUND

1. The Appellant appeals against the decision of First-tier Tribunal Judge Loke dated 19 January 2023 ("the Decision") dismissing his appeal against the Respondent's decision dated 28 May 2021 refusing his protection and human rights claims (Articles 3 and 8 ECHR). The claims were made in the context of the Respondent's decision to deport the Appellant to Somalia on account of his criminal offending.

2. The Appellant is a national of Somalia. He came to the UK on 14 March 1992 with his family, aged ten years, and claimed asylum. On 14 April 1993, he was granted exceptional leave to enter until 14 April 1994. Following extensions of his leave, he was granted indefinite leave to remain on 23 March 2000. He was subsequently refused British citizenship.

3. On 11 June 2008, the Respondent sought to revoke the Appellant's indefinite leave to remain. However, the Appellant's appeal against that decision was allowed.

4. The Appellant was convicted in 2009 of violent disorder and sentenced to 2 years, 3 months in prison. On 20 January 2014, the Appellant was convicted of supply of heroin and associated offences and sentenced to a total of 16 years imprisonment.

5. By the decision under appeal, the Respondent decided that section 72 Nationality, Immigration and Asylum Act 2002 ("Section 72") applied so that the Appellant should be excluded from the Refugee Convention. For similar reasons, the Respondent concluded that the Appellant could not claim humanitarian protection. She also decided that the situation facing the Appellant in Somalia would not breach his Article 3 rights. She decided that deportation would not breach the Article 8 rights of the Appellant based on his private and family life.

6. The Judge found for reasons given at [23] to [30] of the Decision that Section 72 applied, and the Appellant is precluded from relying on the Refugee Convention. There has been no challenge to that finding. Similarly, the Appellant has not challenged the Judge's finding at [31] to [33] of the Decision that he is excluded from a grant of humanitarian protection.

7. The Judge considered the Appellant's Article 3 case at [34] to [48] of the Decision. Whilst accepting that the Appellant would face hardship on return to Somalia, she found that this would not reach the Article 3 threshold.

8. At [49] to [60] of the Decision, looking at the Appellant's circumstances as a whole and "the strong public interest in the

Appellant's deportation", the Judge concluded that the decision to deport the Appellant was a proportionate response.

9. For those reasons, the Judge dismissed the Appellant's appeal on all grounds.

10. The Appellant challenges the Decision on three grounds summarised as follows:

Ground 1: the Judge made errors of fact which amount to material errors of law.

Ground 2: the Judge failed to consider facts and evidence relevant to whether there were very compelling circumstances outweighing the public interest.

Ground 3: the Judge failed to consider the risk to the Appellant arising out of his level of offending and notoriety.

11. Permission to appeal was granted by First-tier Tribunal Judge Khurram on 28 March 2023 in the following terms so far as relevant:

> "..3. On the face of the decision the Judge appears to have failed to consider the impact on the Article 3 assessment, of the appellant's mother's witness statement (p554/SHB). It is not clear whether this point in isolation will make a material difference in the context of the other findings therein. However, it is capable of making a material difference, and so is an arguable error.
>
> 4. Although all of the grounds may be argued, that appears to me to be the strongest complaint. The remaining grounds are considerably less persuasive."

12. The Respondent filed a Rule 24 Reply dated 13 April 2023 accepting that the Judge may have made some minor errors of fact but submitting that those were not material and seeking to uphold the Decision.

13. The appeal comes before me to determine whether the Decision contains errors of law. If I conclude that it does, I then have to decide whether to set aside the Decision in consequence of those errors. If I set aside the Decision, I then have to go on to either re-make the decision or remit the appeal to the First-tier Tribunal.

14. I had before me the core documents relevant to the challenge to the Decision as well as the Appellant's bundle ([AB/xx]) and supplementary bundle before the First-tier Tribunal and the Respondent's bundle before that Tribunal ([RB/xx]).

15. Having heard submissions from Ms Sardar and Mr Whitwell I indicated that I would reserve my decision and provide that in writing which I now turn to do.

DISCUSSION

Ground 1: Errors of Fact leading to Error of Law

16. The country guidance in relation to returns to Somalia is to be found in the decisions of MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC) and OA (Somalia) Somalia CG [2022] UKUT 33 (IAC) ("OA"). As Ms Sardar pointed out, that country guidance requires an individualised assessment regarding the impact of return which is predicated on facts being correctly found. Ms Sardar submitted that there were factual errors which infected the assessment and therefore amounted to errors of law in the Decision. I take each of these in turn.

17. At [RB/140-153] appears a witness statement from the Appellant's mother. The Appellant's mother was not called to give oral evidence before Judge Loke but nonetheless the statement is in proper form, and I accept is part of the evidence which was before the Judge. The Respondent accepts in her Rule 24 Reply that the statement was overlooked but says that the error is not material. In his submissions, Mr Whitwell described the evidence in that statement as "thin" and said that for this reason it did not affect the Judge's overall assessment.

18. At [41] of the Decision, the Judge said that the Appellant's parents had not provided witness statements. That is inaccurate. However, the issue is whether that oversight has any impact on the Judge's assessment.

19. The first point made by the Appellant is that the Judge wrongly found thereafter that "[t]he Appellant had extended family in Somalia at some point" and found that "his parents will have retained some links to Somalia through friends or extended family". That is said to be undermined by what is said in the Appellant's mother's statement. She says this at [9] of her statement:

> "After leaving Somalia, I disconnected myself from the country, the culture and the tradition and made bringing up my children my sole and only purpose. I decided not to raise my children as Somali but within the culture of the United Kingdom. They speak the language and follow very westernised values. I do not believe any of my children could cope with living in a country like Somalia. After fleeing the war my goal was to ensure they had the best education and fitted in."

Later in the statement she says that none of the family members has returned to Somalia, and that she has no family members or connections to assist the Appellant to integrate.

20. Ms Sardar submitted that the Judge had wrongly assumed that the Appellant's mother could "assist him with developing his Somali skills", that his parents "will have retained knowledge of the culture in Somalia, to have retained friends and links in Somalia and will be able to assist him in reintegrating into Somalia". It is fair to point out that the Judge made those assumptions based on the lack of "adequate evidence to the contrary" but given the Judge's oversight

in relation to the Appellant's mother's statement, it cannot be said that she had taken into account that witness statement.

21. Ms Sardar submitted that the error is repeated at [46] where the Judge found that "the Appellant's parents will have retained links and connections to Somalia to assist him", at [48] where the Judge found that this was not a case where the Appellant would not be able to rely on clan or family support and at [58(c)], where the Judge accepted that the Appellant would be dependent on ties and links which could be provided to him "through his own family".

22. Before reaching a concluded view about the impact of the Judge's failure to take into account the witness statement from the Appellant's mother, it is necessary to consider the other factual errors asserted as well as the second and third grounds.

23. The second factual error said to have been made relates to the period of time for which the Appellant had been working. It is said that this is relevant to the Judge's Article 8 assessment and in particular the Appellant's social and cultural integration in the UK which in turn fed into the Judge's findings whether there were very compelling circumstances over and above the exceptions in Section 117C Nationality, Immigration and Asylum Act 2002 ("Section 117C") outweighing the public interest.

24. At [57] of the Decision, the Judge referred to the Appellant only having worked for "around a week at the date of the hearing". As is pointed out in the pleaded grounds, the Appellant said in his statement at [AB/10] that he was working as a service provider for DPD and had started work in that capacity in November 2021. The hearing took place in December 2022. The Judge recorded at [21] that the Appellant said that he had started work as a hostel care worker in November 2022. I surmise that the Judge took this as being the start of his employment as a whole and had overlooked that the Appellant had a job prior to his current employment.

25. I accept that this is a factual error. However, the error is, as Mr Whitwell pointed out, only in relation to the period for which the Appellant had been working. The Judge recognised that he was in employment. As Mr Whitwell pointed out, this error also had to be seen in the context of the overall findings regarding social and cultural integration at [55] to [57] of the Decision. Those paragraphs read as follows:

> "55. I note the considerations in [58-59] of CI. I bear the guidance [sic] regarding foreign criminals who have been in the United Kingdom since childhood. I consider [61-62] of CI and make the following findings and observations.
>
> a) The Appellant has lived almost all his life here. He was educated in the United Kingdom and the Oasys report at SB743 indicates he left school with 9 GCSEs.

b) However, having arrived in the United Kingdom aged 10 years old, his account to Lisa Davies at [3.2.12-3.2.14] is that he started delivering drugs for a person known as [D] at the age of 12. It is of note that he states that this made him feel like he fitted in and had a place to belong. The Appellant then moved out of home to a hostel at the age of 18 or 19 years old and started selling cannabis, which progressed to selling crack and heroin. The Appellant seems to have been exploited as a child, resulting in him being involved with criminal activity from a very young age. It is plainly sad and condemnable that the Appellant was exploited from such a young age, however this in my view will have had the effect of preventing him from developing legitimate social cultural ties to the United Kingdom.

c) This is further reflected in the fact that the Appellant has an extensive criminal record. The historical account of this in 3.3 of Lisa Davies report demonstrates a lack of legitimate social integrative ties. The seriousness of his offending steadily increased and reflects an increased involvement in criminal activity and gang culture. This culminated in the index offence and the leading role he played as part of a conspiracy where he in turn exploited vulnerable individuals and drug users over a considerable period. I find that prior to his sentence of imprisonment the Appellant failed to develop social and integrative ties to the United Kingdom.

d) However, the Appellant's current situation is of relevance, and I note that he has maintained relationships with his family, he has found work and has avoided reoffending. I note the letter from the Probation Service which when reducing his risk of reoffending from high to medium, did this on the basis that he had complied with the terms of his licence and as I have previously noted, his progression was such as to be described as 'outstanding'.

56. The evidence in my assessment indicates that prior to custody the Appellant was not socially or culturally integrated into the United Kingdom. During his period in custody, while he was undertaking rehabilitation he had also received a number of adjudications for possession of cannabis and mobile phones. Since his release he has made positive steps to reforge social and integrative links in the United Kingdom. I take into account the fact that he has developed strong relations with his family, is providing them with positive support and has obtained employment.

57. However, these steps have been taken in the last eighteen months or so. The Appellant had only been working around a week at the date of the hearing. Apart from statements from the Appellant's family there are no other statements from the Appellant's current social circle which would indicate a forging of other positive relationships. While I accept that the Appellant is repairing relationships and forging integrative links, which is commendable, I am not satisfied that this has been at a level and for a sufficient period to confidently conclude on the balance of probabilities that the Appellant is now socially and culturally integrated. In my view the period of positivity has been too short to reach such a conclusion given the length of time the Appellant was immersed in criminal behaviour."

26. As the Judge makes clear at [57] of the Decision, she is there assessing the positive steps taken over the eighteen-month period since the Appellant's release. In that period, as the Judge said, she had no evidence apart from statements from the Appellant's own family about the social and cultural links which the Appellant had in fact formed in the period under consideration. Employment was therefore a very small part of the assessment. Any error in relation to the period of that employment as opposed to the fact of it was therefore so minimal as to make no difference to the outcome of the assessment. That is particularly so when the short period since the Appellant's release was to be contrasted with the significant period prior to and during his incarceration where the Judge (understandably) found that the Appellant was not socially and culturally integrated.

27. Ms Sardar abandoned paragraph [7] of the grounds. She was right to do so. The fact that one of the Appellant's siblings had not finally qualified as a dentist, that one other was currently unable to work and that another was no longer working were not errors capable of impacting on the Judge's assessment that the Appellant could obtain financial support from his family, given that the Appellant has other siblings who are still working.

Ground 2: Failure to Consider Facts and Evidence Relevant to Very Compelling Circumstances

28. As part of her consideration of the Appellant's social and cultural integration in the UK, the Judge referred to the evidence of Lisa Davies, BSc, MSc, CPsychol, CSci, AFBPsS, Chartered and Registered Forensic Psychologist. Ms Davies provided an "Independent Psychological Risk Assessment Report" dated 18 September 2022 which appears at [AB/30-65].

29. At [8.0.4] of her report, Ms Davies indicates that she considers there to be merit in a further assessment of the Appellant's "experience of child criminal exploitation and the presence of trafficking indicators contained within his account". The Appellant says that whilst this was mentioned by the Judge at [55(c)] when considering the Appellant's social and cultural integration, there is no mention of it when considering whether there are very compelling circumstances over and above the exceptions in Section 117C at [59] of the Decision. That paragraph reads as follows:

> "Given the Appellant is a 'serious offender' there needs to be very compelling obstacles [sic] over and above the Exceptions to render deportation disproportionate in his case. I derive guidance from HA (Iraq) and AA (Nigeria) [2022] UKSC 22 and the factors I am to consider. I make the following finding and observations:
>
> (a) Regarding the nature and seriousness of the offences committed by the Appellant, it is clear that the Appellant's index offences were very serious which is reflected in the sentence received and the comments made by the sentencing judge.

(b) I take into account the length of the Appellant's tenure in the United Kingdom, which is significant, although I have found that for the most part his early involvement in criminality prevented him from being socially and culturally integrated.

(c) While he is not socially and culturally integrated in the United Kingdom, I also take into account that I have found the length of time away from Somalia means that he will face very significant obstacles to reintegration upon return. Although he will benefit from remittances and practical support from his family in the United Kingdom.

(d) I consider the fact that the Appellant has not committed any offences since his release on 4th May 2021 and has abided by the terms of his licence. I also consider the fact that he has obtained employment, which is a highly commendable step.

(e) It is submitted on behalf of the Appellant that his mother will suffer depression and difficulty if he is removed from the United Kingdom. It is submitted that his father has ongoing health issues having been diagnosed with cancer. However, his father has finished chemotherapy and is recovering. The Appellant has siblings which will be there to support their parents, and indeed did so when he was incarcerated. His parents have the benefit of the national health service with respect of their medical issues.

(f) The Appellant's siblings have provided statements indicating the effect the Appellant has on their lives. I note Mr [AHT]'s witness statement regarding the Appellant's support while he has suffered mental health issues. However, I find that the Appellant's siblings are a close family and they will be there to support each other, as they did when the Appellant was serving his custodial sentence."

30. I should say at once that no complaint has been made about the very obvious slip in the first part of that paragraph where the Judge refers to "obstacles" rather than "circumstances". She clearly had in mind the right test as she refers to the relevant case-law. She also makes reference to the correct test at [52] of the Decision.

31. Turning then to the way in which this ground is pleaded and was argued, it is said that the exploitation of the Appellant as a child was a positive factor in his favour and therefore should have been weighed in the balance.

32. Ms Sardar referred me to [7.02 – 7.06] of Ms Davies' report as well as [8.04] in relation to the factors which may have led to the Appellant's offending. She also said that the Appellant's exploitation as a child and his trauma might predispose him to a further risk factor on return to Somalia following the guidance in OA. That latter point is not part of the pleaded grounds.

33. There is no error as pleaded. The Judge made findings about the Appellant's social and cultural integration at [55] to [57] of the Decision. I have already dealt with the complaint made about [57] of the Decision but no complaint is made of the Judge's assessment

of social and cultural integration otherwise. In particular, no complaint is made of what is said by the Judge about Ms Davies' report at [55] of the Decision. That includes not only the reference to the Appellant being exploited as a child but his history thereafter which reflected "an increased involvement in criminal activity and gang culture". As Mr Whitwell pointed out, the reliance on the Appellant's own exploitation as a child was something of a double-edged sword as the Appellant himself went on to exploit others (as the Judge there noted).

34. The Judge incorporated her findings regarding social and cultural integration and very significant obstacles into her assessment at [59] of the Decision (see [59(b) and (c)] cited above). She therefore took into account what she had already said about those factors in the Appellant's favour. She did not have to repeat herself.

35. If and insofar as the Appellant intends to suggest that the exploitation and reasons for offending were relevant to and should have diminished the weight of the public interest, I repeat the point made above. The Judge took into account the reasons why the Appellant was said to have first become involved in criminality but also noted that the Appellant had thereafter increased his criminal involvement and had himself become an exploiter. There was no reason to reduce the weight to be given to the public interest for that reason.

36. There is therefore no error of law made out by the Appellant's ground two.

Ground 3: Failed to Consider Risk Arising out of Level of Offending and Notoriety

37. Ms Sardar reminded me that the Appellant would, on his case, have no family support or connections in Somalia. She submitted that his criminality would be prohibitive in terms of jobs and housing in Somalia. She referred me to [356] of the decision in OA as follows:

> "f. A guarantor is not required for hotel rooms. Basic but adequate hotel accommodation is available for a nightly fee of around 25USD. The Secretary of State's Facilitated Returns Scheme will be sufficient to fund a returnee's initial reception in Mogadishu for up to several weeks, while the returnee establishes or reconnects with their network or finds a guarantor. Taxis are available to take returnees from the airport to their hotel.
>
> g. The economic boom continues with the consequence that casual and day labour positions are available. A guarantor may be required to vouch for some employed positions, although a guarantor is not likely to be required for self-employed positions, given the number of recent arrivals who have secured or crafted roles in the informal economy.
>
> h. A guarantor may be required to vouch for prospective tenants in the city. In the accommodation context, the term 'guarantor' is broad, and encompasses vouching for the individual concerned, rather than

> assuming legal obligations as part of a formal land transaction. Adequate rooms are available to rent in the region of 40USD to 150USD per month in conditions that would not, without more, amount to a breach of Article 3 ECHR."

38. Ms Sardar submitted that the Appellant would be unable to obtain a guarantor for employment and accommodation due to his criminal notoriety. She said that the Appellant's case had been reported in the UK press which report would be available on the internet. A guarantor laying himself open to legal obligations could be expected to check for criminal offences prior to agreeing to act as a guarantor. She said that "it would not take much for a guarantor to find what the [Appellant's] criminal behaviour was". She submitted that the Judge should have taken account of this.

39. As Mr Whitwell pointed out, OA applies unless there are cogent reasons to depart from it. The Appellant's case is that his notoriety places him in a different category. However, Mr Whitwell submitted that the Judge dealt with this argument at [45(e)] of the Decision as follows:

> "I take into account the policy paper on Returnees to Somalia at AB179. While the Appellant may well have to disclose his criminal convictions to the authorities upon return the country guidance indicates that this would not place the Appellant at any enhanced risk of societal rejection."

40. The Appellant's pleaded ground takes account of this reference but says that the Judge was there considering the general position of someone with a criminal background and not someone with the notoriety of the Appellant. Whilst Ms Sardar accepted that the Appellant would not be at risk generally due to his criminality, she continued to assert that the Appellant would not find employment or accommodation due to his criminal notoriety and that he would not find a guarantor to support him for that reason. She submitted that this was particularly important in circumstances where the Appellant would have no support from family or community members in Somalia (to which the first error in the first ground is relevant).

41. The difficulty with the Appellant's third ground is the lack of any background or expert support for his argument. As the Judge notes at [43] of the Decision, the Tribunal in OA rejected the argument that "a criminal record or drugs problem in the United Kingdom places a returnee at an enhanced degree of risk of societal or clan-based rejection" (see [280] of OA).

42. There is a further issue and that is how any guarantor, even if he were to check, would find any mention of the Appellant's criminal history. The Appellant has a quite common name. His last criminal conviction was many years ago. There is nothing in the Appellant's evidence which points to any continuing media interest in his case.

Whilst it might be possible to find reference to the Appellant's case if someone searching the internet were aware of the press report at the time of his conviction, it is highly unlikely that it would be found by a general search of the Appellant's name without more.

43. The Judge considered the Appellant's case that he would be at risk due to his criminal history and rejected that argument based on the country guidance. She was entitled to reach the conclusion she did on the evidence she had. There is no error disclosed by the third ground.

Materiality of the Error Accepted

44. I return then to the error which I found to be made out under the first ground. Ms Sardar submitted that this error was not peripheral. She pointed out that much of the Appellant's evidence had been found to be credible and that the evidence of his mother might also be found to be credible. That would then undermine the finding of the Judge that the Appellant could rely on extended family and/or other community contacts for support on return.

45. As Mr Whitwell pointed out, the fact of support in Somalia was not the only reason why the Judge had found that the Appellant would be able to return to Mogadishu. The Judge's findings in that regard are at [45] of the Decision. The Judge accepts that the Appellant has been away from Somalia "for a considerable period and…that he will face hardship upon return" ([45(a)]). The Judge however had evidence that the family could support the Appellant financially ([45(b)]). The Appellant (as OA) may also be able to benefit from the Facilitated Returns Scheme ([45(b)]. On those findings the Appellant would have some support in the short term while he found employment and accommodation.

46. The Judge at [45(c)] accepted that the Appellant had suffered trauma in Somalia and when arriving in the UK was exploited and led into criminality. However, she expressly found that this had not "rendered him a vulnerable adult at the present time". The Judge expressly considered Ms Davies' concern of a risk of further exploitation or resumption of drug abuse on return but rejected that. The Judge found on the evidence as a whole that "the Appellant is a healthy and resourceful individual with insight into his behaviour". She noted the qualifications which the Appellant had obtained in the UK. She concluded that paragraph with the finding that "the Appellant is a healthy and intelligent adult who has a reasonable prospect of gaining employment if returned to Somalia".

47. The Judge accepted at [45(d)] that the Appellant is from a minority clan but found that "this will not preclude him from cultivating links and alliances when in Somalia". She noted the evidence that the Appellant's parents communicate in Somali – indeed she had evidence from one of the Appellant's siblings that the Appellant's

parents are "not confident speaking English". The Appellant confirmed that Somali was spoken at home. Although he said that "his own Somali is minimal", the Judge was "satisfied he can understand and probably speak some Somali". Even taking into account the statement from his mother, the Judge was entitled to find that "his mother can assist him with developing his Somali skills" and that "the Appellant's parents will have retained knowledge of the culture in Somalia".

48. Whilst the Judge did not consider the evidence of the Appellant's mother that she has no family members or connections remaining in Somalia, the country guidance in OA suggests that even those with no connections remaining may be able to find those connections via the Somali diaspora in the UK (see (5) of the guidance). The Appellant's mother stops short of saying that she has no diaspora links in the UK. In any event, the remainder of the findings in that paragraph regarding knowledge of society in Somalia hold good. It is of note that the Appellant's mother was born and lived in Mogadishu before coming to the UK.

49. I have already dealt with the Judge's findings regarding the Appellant's criminal history at [45(e)] of the Decision. The Judge found also that the fact of the Appellant's westernisation would not place him at risk ([45(f)]).

50. Ms Sardar placed emphasis on (14) of the guidance in OA that "[i]t will only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which would be reasonable for internal relocation purposes". Even if the Appellant could not rely on family support from within Somalia, the Judge's finding that the Appellant could rely on support and remittances from family the UK still stands as does her finding that he could obtain clan support even if he might not have that at the outset.

51. The issue of family or community connections is most relevant to the position immediately on return in order to find employment and accommodation. In that regard, the Judge found as follows at [47] of the Decision:

> "The Appellant himself is a mature and capable adult of 41 years, who has a reasonable prospect of securing employment himself in due course. I am not satisfied that he falls within para 14 of the headnote on OA, namely that he will have no clan or family support and will not be in receipt of remittances and has no prospect of securing access to a livelihood upon return."

52. Having regard to the totality of the witness statement of the Appellant's mother and all the findings made by the Judge, I do not consider that the evidence of the Appellant's mother could make a difference to the outcome. Even if the evidence that she has lost all

direct connections to Somalia were accepted, she will have knowledge of how Somali culture and society works due to her time spent there. The Appellant will be able to cultivate clan connections following return. He will have the benefit of financial assistance from the UK. He will be able to find employment and therefore accommodation.

53. As Mr Whitwell submitted, the Appellant's grounds "cherry pick" some of the findings in the Decision. Looking at the totality of the Judge's findings, I have concluded that the one error which I have found might have impacted on her assessment does not make a difference. Accordingly, that error is not material.

54. For those reasons, I decline to set aside the Decision. I uphold the Decision with the consequence that the Appellant's appeal remains dismissed.

NOTICE OF DECISION

The Decision of First-tier Tribunal Judge Loke dated 19 January 2023 does not involve any error of law which could impact on the outcome. Accordingly, I uphold the decision with the consequence that the Appellant's appeal remains dismissed.

L K Smith
Upper Tribunal Judge Smith
Judge of the Upper Tribunal
Immigration and Asylum Chamber
20 July 2023