



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Numbers: HU/14421/2019_P

THE IMMIGRATION ACTS

Decided under Rule 34 without a hearing
On 10 February 2021

**Decision & Reasons Promulgated
On 25 February 2021**

Before:

UPPER TRIBUNAL JUDGE GILL

Between

Mr Mohammedanis Mohammedyakub Shaikh
(ANONYMITY ORDER NOT MADE)

Appellant

And

The Secretary of State for the Home Department

Respondent

DECISION

1. This is a decision on the papers without a hearing pursuant to paras 4 and 5 of the Senior President's "*Pilot Practice Direction: Contingency Arrangements in the First-tier Tribunal and Upper Tribunal*" (hereafter the "PPD"), issued on 19 March 2020 on a pilot basis for a period of six months and extended subsequently for a further six months until 18 March 2021, and rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008.
2. By my Directions dated 27 November 2020 (sent to the parties on 2 December 2020 (hereafter the "*December 2020 Directions*") and having considered the judgment of Fordham J in *R (Joint Council for the Welfare of Immigrants) v President of the Upper Tribunal (Immigration and Asylum Chamber)* [2020] EWHC 3103 (Admin), I indicated to the parties my provisional view concerning the appropriate disposal of the appellant's appeal. I gave reasons for my provisional view at paras 2 and 3 of the

December 2020 Directions. At para 4, I stated that I was therefore minded to make a decision without a hearing:

- (i) that Judge Skehan materially erred in law and that her decision should be set aside in its entirety; and
 - (ii) that the appeal should be remitted to the First-tier Tribunal for a Judge of that Tribunal other than Judge Skehan to re-make the decision on the appellant's appeal on the merits on all issues.
3. At para 5, I stated my view that it was therefore unnecessary to hold a hearing of this appeal in the Upper Tribunal in order to decide whether the decision of Judge Skehan should be set aside.
 4. I then issued directions which gave the parties an opportunity to make submissions and/or object to my provisional view, having drawn their attention to the judgment in R (JCWI).
 5. Neither party made any submissions or objected within the periods specified in the December 2020 Directions. Nor have any objections or submissions been received to date.
 6. I have considered afresh whether it is appropriate to proceed to decide this appeal without a hearing under rule 34. Fordham J did not find that the PPD was unlawful. Furthermore, the judgment in R (JCWI) did not concern cases in which the Upper Tribunal has indicated its provisional view(s) concerning the *disposal* of the appeal and invited submissions/objections, which is the subject of paras 4-5 of the PPD.
 7. For the reasons given at paras 2-3 of the December 2020 Directions, I am satisfied that Judge Skehan materially erred in law and that her decision should be set aside in its entirety. Having considered the issues to be decided in this appeal, including the issues identified by Upper Tribunal Judge Rintoul at paras 2-3 of his "*Memorandum & Directions*" dated 16 September 2020, I am satisfied that this case falls within para 7.2(b) of the Practice Statements for the Immigration and Asylum Chambers of the First-tier Tribunal and the Upper Tribunal.
 8. I therefore remit this appeal to the First-tier Tribunal for a Judge of that Tribunal other than Judge Skehan to re-make the decision on the appeal on the merits on all issues.

DECISION

9. The decision of the First-tier Tribunal involved the making of errors on points of law such that the decision is set aside in its entirety. The appeal is remitted to the First-tier Tribunal for a Judge of that Tribunal other than Judge of the First-tier Tribunal Skehan to re-make the decision on the appeal on the merits on all issues.

Upper Tribunal Judge Gill

Date: 10 February 2021

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.