



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

Appeal Number: PA/01795/2020

PA/01796/2020

THE IMMIGRATION ACTS

Heard at a remote hearing

On 16 June 2021

**Decision &
Promulgated**

On 6 July 2021

Reasons

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**JA AND KA
(ANONYMITY DIRECTION MADE)**

Appellants

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C. Holmes, Counsel instructed on behalf of the respondent

For the Respondent: Mr M. Diwnycz, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellants, citizens of El-Salvador, appeal with permission against the decision of the First-tier Tribunal (Judge Saffer) (hereinafter

referred to as the “FtTJ”) who dismissed their appeals in a decision promulgated on the 2 July 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 appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them. 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. The hearing took place on 16 June 2021, by means of *Microsoft teams* 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. The advocates attended remotely via video as did both appellants who were able to hear and see the proceedings being conducted. I am satisfied both advocates were able to make their respective cases by the chosen means.
4. I am grateful to Mr Holmes and Mr Diwnycz for their clear oral and written submissions.

Background:

5. The basis of the appellants’ claim is summarised in the decision of the FtTJ at paragraphs 9-13. The appellants are nationals of El Salvador and are brothers. Both were said to be in fear of the MS 13 gang. All of their family still live in xx where his aunt works with the police.
6. Four years ago when he was with his cousin he was threatened by gang members whilst visiting his grandmother in xxx. He did not visit for a while out of fear but then began to do so as he thought matters had improved.
7. On 2 November 2019, JA and his brother went to a shop. JA stated that he and his brother went to the shop and KA did the shopping while he waited outside. At that time 3 men who appeared to be gang members and that when they approached him, they thought that he and his brother were sons of the police officer referring to their aunt and even mentioned her rank and the car she drove. He records in his witness statement at paragraph 9 that he and his brother were threatened by the 3 members of the MS 13 gang and they said they didn’t want to see them ever again or they would kill them. They were accused of being the children of their paternal aunt who was a police officer.
8. The 2 appellants did not report the incident to the police until 24th of November 2019 and after they had informed their aunt what had

happened. They provided a police report with an English translation as evidence in support.

9. The appellants remained in El Salvador until 26 November 2019 continuing to live at their home and carrying out their work commitments.
10. They arrived in the UK on 27 November 2019 and claimed asylum on the same day.
11. In a decision taken on 6 February 2020 the applications by both appellants were refused on all grounds. In considering their claims the respondent accepted that both appellants were nationals of El Salvador but set out in the decision letters the inconsistent accounts that had been given by the appellants and concluded that it had not been accepted that they had any problems in El Salvador from the gang members. Reference was made to the issue of sufficiency of protection in the light of the country materials which was set out in the decision letters. In the alternative it was asserted that the appellants could internally relocate. The remainder of the decision letters related to Article 8 which do not form the basis of any appeal to the FtT or to the Upper Tribunal.
12. The appellants appealed that decision and both appeals came before the FtTJ on 29 June 2020.
13. As set out at paragraph 1 of the decision, it had been agreed at the CMRH that the appellant's aunt is a policewoman and that if there is found to be a threat from the gang to the appellants requiring state protection, there would not be effective protection, and internal relocation would not be available or reasonable.
14. For the purposes of the hearing the FtTJ had a bundles of documentation comprising of articles and reports relating to El Salvador which are set out in the appellant's bundle. There were also references to the objective material set out in the respective decision letters of the appellants.
15. In a decision promulgated on 2 July 2020 the FtTJ dismissed their protection claims. The FtTJ had the advantage of hearing each of the appellants giving oral evidence and for their accounts to be the subject of cross examination. He set out his findings of fact at paragraphs[18] -[25] and for the reasons set out within those paragraphs concluded at paragraph [25] that the appellants had not established it was reasonably likely that they were threatened by any gang in El Salvador at any time despite its prevalence, or that they would be of any adverse interest to any gang in El Salvador on their return. The FtTJ therefore dismissed their appeals.

16. Permission to appeal was issued on the 16 July 2020 and permission was refused on the 28 July 2020 and also on renewal to the Upper Tribunal by UTJ Lane on 13 August 2020.
17. An application was made to the High Court to challenge the decision of UTJ Lane (a “Cart JR”), and permission was granted on 9 November 2020. An order was made on the 8th of February 2021 quashing the decision of the Upper Tribunal to refuse permission to appeal.
18. On the 22 March 2021, an order was made granting permission to appeal in light of the decision of the High Court. The decision sets out “the parties are reminded that the Upper Tribunal’s task is that set out in s.12 of the 2007 Act.”

The hearing before the Upper Tribunal:

19. Following the grant of permission, the Upper Tribunal issued directions for a remote hearing on the 16 June 2021 which took place by way of Microsoft teams.
20. Mr Holmes, Counsel on behalf of the appellants and who had appeared on their behalf before the First-tier Tribunal, did not provide any further written submissions and relied upon the written grounds.
21. Mr Diwnycz on behalf of the respondent relied upon the Rule 24 response filed.
22. I also heard oral submission from the advocates as summarised below. I intend to consider the parties submissions when addressing the grounds relied upon by the appellants.
23. At the conclusion of the submissions I reserved my decision which I now give.

Decision on error of law:

24. Mr Holmes on behalf of the appellant submitted that there were 2 discrete reasons that were relied upon. Firstly, the FtTJ failed to address the risk to family members of police officers (ground (a)) and secondly, the issue relating to credibility (grounds (b) (c) and (d)).
25. For the purposes of the decision I intend to first deal with the grounds and the submissions made which relate to the issues of credibility raised which are set out in grounds (b) (c) and (d).

Ground (b):

26. Dealing with ground (b) Mr Holmes submits the FtTJ failed to have regard to material matters when reaching his credibility findings relating to the appellants’ claim. He refers to paragraph [22] of the decision where the judge reached a finding of fact based on the delay

in reporting the threats made from gang members to the police and further as to the nature of the report made to the police.

27. It is submitted that the judge did not take account of the appellant's evidence or the purpose behind the complaint where it was recorded at paragraph 11 of the decision that "the purpose of making the complaint was to protect (the appellants) family."
28. In his oral submissions, Mr Holmes submitted that the FtTJ misunderstood the appellants' motivation for going to the police and therefore this affected the assessment of the evidence.
29. Having considered the submission the light of the evidence given before the FtTJ I am satisfied that this ground has no merit.
30. At [22] the FtTJ considered the appellants' account. The judge made a number of findings at that paragraph and not only related to the issue of delay in reporting the event to the police as relied upon in ground (b).
31. The judge made the following findings at paragraph [22]:
 - (1) that it was not reasonably likely that they would report the threat to the police if they believed the police were corrupt out of fear of it getting back to the gang.
 - (2) The judge agreed with respondent's submission that if the incident in November 2, 2019 had taken place that it was not reasonably likely that they would have waited 24 days before reporting to the police as such a significant delay with such nebulous description would inevitably limit their ability to catch the alleged gang members.
 - (3) The judge found that the appellants had no problems for 24 days while living at home and continuing to work which indicated that it was not reasonably likely that they were of any adverse interest to the gangs.
 - (4) The appellant's account was that there were no ongoing problems for the family members remaining in El Salvador also demonstrated that it was not reasonably likely that they were of any adverse interest to the gangs.
32. Ground (b) refers to the 2nd reason given by the FtTJ at [22] reaching an adverse credibility assessment of their claims and submits the judge did not take account of the appellant's evidence as to the purpose behind the complaint. It is therefore submitted that it was not the intention of the appellants that the gang members would be caught.
33. There is no error in the FtTJ's or any failure to consider the appellant's factual claim. If it was the case that the appellant's evidence was that

they had made the complaint to protect the appellant's family, as members of the family it must also be included protection for themselves.

34. Furthermore the evidence given in cross examination of the appellant KA was set out in the type of written record of proceedings as follows:
- “Q; did you give a description of the men to the police?
A; JPA did.
Q: any contact with the police since JPA made the report?
A; no.
Q would you have given evidence against the gangs?
A. Yes
Q: so the purpose of making the report was to have them arrested?
A; yes.
35. That was the last set of questions in cross examination, and it is further recorded that there was no re-examination.
36. Also recorded in the submissions made on behalf of the respondent the judge set out “JPA said the report was to get family protection KPA said to have them arrested. How police tracked down gang members given the description.” This is also reflected in the summary of the respondent's case set out by the judge at paragraph [14] and [11].
37. It is therefore the position from the evidence that the 2 appellants had given inconsistent evidence as to why the report was made to the police. The evidence of KA was that the purpose of making the complaint to the police was to have the gang members arrested. Therefore the FtTJ did not misunderstand the evidence. That being the case, in my judgement it was entirely open to the FtTJ to reach the conclusion that it was not reasonably likely they would have waited 24 days before reporting the incident, given that that was such a significant delay with such “nebulous descriptions”, and this would inevitably limit the ability to catch the gang members.
38. Consequently there is no mistake of fact or the failure to take account of any material matter on the part of the FtTJ. I find no error in the way the grounds assert at ground (b).

Ground (d):

39. The grounds also seek to challenge one of the strands of the credible findings set out at paragraph [22] which I have summarised earlier.
40. Mr Holmes submits that the challenge here is to the finding made by the judge that he did not accept that there was a reasonable likelihood of the appellants making a report to the police. He advances the challenge for 3 reasons. Firstly, the judge did not refer

to the evidence that it was their aunt who persuaded them to make the report. Secondly, it is inherently dangerous for the judge to attempt to put himself in the shoes of the appellants and thirdly, the effect the finding is that no one El Salvador would report gang related threats.

41. As set out earlier the factual findings made by the FtTJ which are the subject of challenge are only part of the factual assessment set out at paragraph [22] where the judge set out a number of reasons as to why he reached his adverse credibility findings in relation to the appellant's claim. Ground (d) concerns the 1st finding that he did not believe or accept their account that they would have reported the threat to the police given their evidence as to the repercussions upon themselves and the family members. Whilst Mr Holmes submits it was a wide-ranging finding which would mean that no one would have reported such threats, the finding has to be placed in the context of the appellant's claim and the objective evidence.
42. The judge had a large amount of objective evidence before him which he had referred to and is set out in a brief summary at [17]. The objective material demonstrated gang members belong to 2 powerful gangs, MS13 and Barrio 18 in El Salvador and have relied on infiltrating state institutions to secure protection and further their criminal interests. Not only in the political system but it is recorded that between 2010 - 2011 nearly 500 gang members allegedly infiltrated El Salvador armed forces, and the police. In some cases gang members have corrupt police officers to run extortion rackets - their primary income source - or corrupt troops to obtain high-powered weaponry. The prison system is also seen as the headquarters of MS 13 and Barrio 18 for more than a decade. This was in part due to their "organisational skill and guile" (see p 35 - 36AB).
43. At page 42AB reference is made to the complaints and reports of torture and ill-treatment and the use of excessive force by the police and the percentage of murders allegedly attributed to the police which increased from 1% in 2010 to 5% in 2015 and more than 10% in 2017 and that there was the existence of "death squads" were reported (see p42AB). Those who collaborated with the security services were reportedly subjected to brutal retaliation from the gangs (p 110AB).
44. It is further reported that the police (even the elite anticorruption unit) in high-profile cases were usually not seen to offer a sufficient form of protection for those who had been threatened by gangs since their presence is only temporary and the gangs would return. The reports indicate that often the most the police are able to do is to provide an escort out of the neighbourhood for those who have received threats (at p. 116AB).

45. The objective material indicates that even those in witness protection have been tracked down and killed by the gangs (P 116AB).
46. In my judgement the FtTJ was entitled to place the appellants' account against that background material and the appellant's own evidence that they believed the police to be corrupt. It was therefore open to the judge to conclude from the evidence that in the light of the material and the appellants evidence themselves that they had given that it was not reasonably likely that they would have reported the threat themselves as they believed the police were corrupt and out of fear of it getting back to the gangs who they claimed had threatened them. As the material set out, the gangs act swiftly after hearing of any such complaint.
47. It is also important to take into account the 3rd finding of credibility set out at paragraph [22] which is not challenged on the grounds.
48. The FtTJ made a finding that in the light of the evidence, the account given by the appellants that they remained living in their home and continuing to work for 24 days without any problems to them or any retaliation from the gangs undermined their account of being of interest to the gangs as asserted.
49. That was a finding that was firmly evidence-based as there had been no dispute that they had remained in their family home and had continued to work.
50. That finding was also one that was supported by the background material that I have just set out above.
51. On their evidence they did not leave El Salvador until the 26 November 2019. In his asylum interview KA was asked about that period of time. The following is recorded:

Q68; did you encounter any problems/threats in between being threatened on 2/11/2019 and leaving on 26/11/2019?

A: after 2 November we didn't receive any direct threats against us but were very cautious and frightened for our lives.

Q 69: in the time between receiving the threats and leaving El Salvador did you continue life as normal?

A: yes we continued with our normal life but very frightened and I left my work for a week before leaving El Salvador.

Question 70: why did you continue to work given that your life was in danger?

A: sincerely I wanted to leave my place of work on good terms as I really liked the works I worked exactly my start and finish time straight home with a lot of caution.

52. The background evidence refers to the large numbers of gang members operating in El Salvador and that they enforce their borders and gather intelligence on residents (see page 74). Killing is described as an integral part of their exercise of control and power and that they form part of the “deliberate strategy targeting those who complain about them”. The MS 13 gang are described as “highly organised” (page 182).
53. Drawing together that evidence, it was open to the FtTJ to find on the evidence before him that the appellants’ account of being threatened with death by the gangs and their conduct in remaining at the home and continuing to go about their daily lives including work without any adverse interest being shown in them by the gang members was not consistent with their account of having been threatened earlier or consistent with that background evidence.
54. The FtTJ also made a finding on the evidence again which is not challenged in the grounds at paragraph [22] where the judge found that the lack of evidence as to ongoing problems for the family members remaining in El Salvador also indicated that it was not reasonably likely that the appellants were of any adverse interest to the gang members. The objective material before the judge demonstrated that witnesses/victim of the gangs have been reportedly killed to ensure their silence and those who cooperate with the authorities are reportedly pursued often alongside family members (see page 185).
55. The evidence of KA was that since he and his brother left El Salvador none of the immediate family had any problems in living in El Salvador. The appellant’s parents remain there, and his brother was attending school (question 80 of the interview). In relation to their aunt, KA was asked if she had had any problems in his absence since leaving El Salvador. He stated, “I don’t know after we left I lost touch.” The judge also recorded the evidence of JA at [10] that he did not have problems after reporting the death threats nor had the appellant’s aunt. He spoke to her 2 or 3 weeks after he left El Salvador and gave evidence before the FtTJ that he had last spoken to her “2 or 3 weeks ago”.
56. In the light of the background evidence concerning gang activity and violence to remaining family members, it was open to the judge to reach the conclusion on the evidence that as there were no ongoing problems to the family members as a result of their actions that this was a further reason why he found the appellants to be of no adverse interest to the gangs in El Salvador.

Ground (c):

57. I now turn to ground (c). It is submitted on behalf of the appellant that the FtTJ reached an adverse credibility conclusion on a matter that was not put to the appellant. Mr Holmes directed the tribunal to paragraph 21 of the decision and the conclusion made by the judge that the appellants had given “wildly different” accounts to the judge than they had given to the police in El Salvador.
58. Mr Holmes submits that the difference in the police report is not something they were ever asked to resolve and that they were cross-examined at some length and that it was not put to them that the discrepancy existed. Thus Mr Holmes submits the judge was unfair in placing weight on that.
59. I indicated to the advocates during the hearing that the ROP dealt with this issue and read the relevant aspects of the ROP to the advocates. For his part Mr Diwnycz confirmed that that was consistent with the Presenting Officers record.
60. I have therefore carefully considered the grounds. Paragraph [21] of the FtTJ’s decision refers to the evidence given by the appellants concerning events on 2 November 2019.
61. The FtTJ said this:
- “However, the discrepancy between the accounts given to the police in El Salvador some 24 days after the apparent event in November 2019, and that given to the respondent interview on 30 January 2020 and me in their statements of 19 March 2020 and orally is wildly different. They gave a signed statement to the police that KA was with JA when they were surrounded while going to the shop and they were threatened. They both gave signed statements and oral evidence here that KA was not surrounded as he was inside the shop when JA was surrounded and threatened. Both accounts cannot be true. This significantly undermines their credibility and would not occur if they were telling me an account that was reasonably likely to be true.”
62. The evidence of each of the appellants is set out in their witness statements at paragraph 9. JA stated that his brother went into the shop while he waited outside and that 3 men appeared who were gang members and threatened him. KA also set out that he was in the shop and his brother waited outside.
63. The police report and translation are set out at page 19 of the bundle under the heading “narration of the facts”. The following is stated:
- “it is stated today that the complainant has presented himself in this department for the purpose of filing a complaint and report an offensive threat that himself and his brother have received so that we

can find out more information about it and investigate the following facts. Firstly he mentioned that himself and his brother reside in xx neighbourhood in the city, but they frequently go visit their grandmother in the neighbourhood named xxx and at a date and time mentioned above, they were walking towards a shop and they notice 3 suspicious persons. Those persons have the following physical characteristics: 2 of them were tall and slim and one was short, and fat and he was wearing a cap and they surrounded them and they told them that they did not want to see them again in this place and that they were the sons of a police officer and that his name was xxx and that if they did not do as told, they would face the consequences and 1 of them told them that they would kill them and they describe their aunt to them..."

64. There is a clear discrepancy on the face of the 2 witness statements and the evidence given in the translation of the police report. The FtTJ was plainly aware of the evidence given by both appellants and recorded it in his decision at [11] in relation to the appellant JA and it also recorded the questioning of KA at [12]. Further at [13] the judge set out the evidence in in the police report which I have set out above.

65. As to the ROP the evidence of JA is recorded as follows:

Q: did you wait outside the shop while KA went in?

A: yes as it was full.

Q: did KA come out of the shop with anyone?

A; no.

Q: So the people spoke to you while KA was in the shop?

A: yes

How long did conversation last?

A: do not know how long - they threaten me - all I had was fear

Q: did they speak to KA as well

A; no."

Later the appellant was asked.

Q: in the police report it says you were surrounded by the gang members?

A: yes

Q: were you or were you and KA surrounded by the gang?

A: only me as KA was in the shop.

Q: did they move away when he came out?

A: when he left they were already on their way.

66. Contrary to the grounds, I am satisfied that there was a clear discrepancy set out in the written evidence of both appellants and recorded in their interviews compared with the written material in the police report which was apparent to all including the advocates. The

judge recorded the respondent's submission at [14] that the police report did not match the interview record (which was the same as the appellant's witness statements). The description given by the judge that their accounts were "wildly different" is supported by the evidence that I have set out above. The judge was therefore entitled to reach the conclusion that this was a discrepancy which significantly undermined their credibility. It went to the heart of their claim that they had been threatened by the gang which had led to them leaving El Salvador.

67. I do not accept the submission made by Mr Holmes that there was any unfairness on the part of the judge. The police report is the appellant's own document and relied upon by them. It must have been apparent from the translation that it was not consistent with their account and no steps were taken prior to the hearing to deal with this issue. Nor was there any re-examination of the evidence as recounted in the ROP. Given the clear and obvious discrepancy there was no unfairness in the FtTJ having regard to the evidence before him which was the subject of cross examination and the submissions made on behalf of the respondent. In reaching that finding on what was the core issue he was entitled to find that the discrepant evidence in the police report significantly undermined their factual accounts. Consequently there is no error of law in the credibility assessment at [21].

Ground (a):

68. It is against that background that I consider ground (a). The grounds assert that the FtTJ failed to make any assessment of the risk that attached to the appellants owing to their family relationship with a police officer in El Salvador. Mr Holmes on behalf of the appellant submits that it had been accepted that the appellant's aunt was a serving police officer (see paragraph 1 and 19 of the decision) and that the objective evidence made a case for family members constituting a risk category.
69. In his oral submissions he pointed to the tribunal to passages within the objective material including the respondent's CPIN.

'Members of the security forces and their families members are at risk of being killed, either because of specific problems with gangs or simply because of their work, and attacks have increased since the failure of the truce and political discourse in 2014 and 2015' [150] 10.4.5 A Freedom House report on El Salvador published on 4 February 2019 noted that gangs 'continue to target members of security forces and their families.' [151] In a November 2018 report, International Crisis Group reported 'Police officers always wear a gorro navarone, or face-covering balaclava, scared that gang members will come after them and their families' [152].

70. He therefore submits that the appellants fall into the risk category and that the judge did not resolve this but focused on whether the appellants had received specific threats rather than their personal characteristics as relatives of a serving police officer.
71. The rule 24 response relied upon by Mr Diwnycz submits that the judge rejected the appellant's claim that due to their association with their aunt that they had been threatened and found at paragraph 25 that they would not be of any adverse interest to any gang in El Salvador. The judge was clearly aware of the evidence of family members of police officers could be at risk that the evidence clearly did not establish that all such family members are at risk. The Secretary of State submitted on the evidence and on the other findings of the FtTJ, that the appellant had not discharged the burden to show that there was a real risk of harm or that the situation was such that they could establish an article 15 C risk. Thus the finding made at paragraph 25 is sound and adequately reasoned and does not amount to material error of law.
72. Having considered the submission with care and in the light of the objective material before the tribunal to which I have had regard, I am satisfied that there is no error in the way that the grounds assert. Mr Holmes submitted that I should consider the skeleton argument submitted before the FtTJ and I was provided with a copy. In that document there are references to the country information relating to the police.
73. In the submission made at paragraph 19 under the heading "submissions" the following is recorded:

"the appellants have given credible and plausible reasons for claiming asylum. Both appellants accounts are mainly consistent with each other, which adds to their overall credibility. They fear the gangs of El Salvador, as they are threatened with serious harm and death by them as leverage against their aunt who is a police officer in El Salvador. The gang MS - 13 are one of the most powerful and territorial gangs. Therefore, both appellant fall into a risk category as highlighted above being family members of someone who works in the security force and are reasonably likely to face persecution as a result."
74. Thus the case advanced on behalf of the appellants before the FtTJ was that the risk for them was based on having been threatened with serious harm and death as "leverage against the aunt who was a police officer" and that they fell into the risk category of family members of someone who worked in the security force.

75. The skeleton argument also refers to the country material by reference to the UNHCR risk categories as set out at page 124. The following is set out:

“members of the PNC and Armed Forces have long represented a target for attack by gang members and other organised criminal groups, especially since lower ranking officials often live in the same neighbourhoods as gang members stop however, since the breakdown of the gang truce, some local gangs have reportedly been ordered to kill a specified number of police officers living in their territories...

Depending on the particular circumstances of the case, UNHCR considers that members of the PNC and Armed Forces may be need of international refugee protection on the basis of their membership of a particular social group, or on the basis of the convention grounds.”

It is further stated under section 13 “family members, dependents, other members of the households of individuals with any of the profiles above, as well as employees of such individuals, can reportedly also be a target for attacks and assassination by gangs, sometimes even of the person who was initially targeted by the gang in question has fled or has already been killed. Family members, dependents, other members of the households, and employees of individuals with any of the profiles above may also be need of international protection reasons of their association with individuals at risk on the basis of their (imputed) political opinion, or on the basis their membership of a particular social group, or other convention grounds.”

76. Drawing those matters together, it is plain that whether the appellants were at risk from the gang members as a result of their familial links was required to be seen in the light of the factual claim that they had been targeted by the gangs and threatened with serious harm on account of their familial link. As a UNHCR set out that was dependent on the particular circumstances of the case and by reference to family members may be in need of protection for reason of their association with individuals at risk.
77. The FtTJ gave adequate and sustainable reasons for rejecting their factual account to have been threatened by the gangs whilst in El Salvador and found that they were of no adverse interest to the gang members. In particular the finding that has not been challenged in the grounds was that none of the remaining family members, which included the appellant’s parents, his sibling and other extended family members, had been threatened or otherwise been at risk of harm since the incident in November 2019 nor since the appellants had left El Salvador.

78. In the light of the objective material which was also set out in the skeleton argument at page 3, and which cited the highly organised activities of the gang members and their ability to gather intelligence on the residence of those who gave evidence or complaints against them such as the appellants, that family members were related to them would be at risk. This evidence is not consistent with the factual account given by the appellants. There was no evidence of the remaining family members of the appellants who were also related to the appellant's aunt and who remained in El Salvador of being of any adverse interest of the gang. There were no allegations of being at risk of harm and this undermined the appellant's claim that as family members of their aunt they were at real risk of persecution or serious harm on return.
79. In my judgement the FtTJ was correct to focus on the particular circumstances the appellants and to determine whether the appellants were at real risk of serious harm and was entitled to take into account the appellants evidence of events that had occurred in El Salvador which he rejected and that despite being family relatives of the appellant's aunt, the remaining family members in El Salvador had not been at any risk of harm serious or otherwise.
80. Having rejected their account for the reasons I have set out and which I am satisfied were open to the judge to make, their account demonstrated that the gang had no adverse interest in the appellants or the appellant's family members who remained in El Salvador despite the family relationship with their aunt as a police officer.
81. 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 FtTJ 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 of the FtT 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 Appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them. 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 21 June 2021