



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal number: PA/11945/2019_P

THE IMMIGRATION ACTS

**Decided under Rule 34 without a hearing
On 3 September 2021**

**Decision & Reasons Promulgated
On 11 October 2021**

Before

Upper Tribunal Judge Gill

Between

**Mr H G
(Anonymity Order made)**

Appellant

And

**The Secretary of State for the Home
Department**

Respondent

Anonymity

I make an order under r.14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the original appellant. No report of these proceedings shall directly or indirectly identify him. This direction applies to both the appellant and to the respondent and all other persons. Failure to comply with this direction could lead to contempt of court proceedings.

The parties at liberty to apply to discharge this order, with reasons.

I make this order because: (i) the appellant is vulnerable; (ii) there are also concerns that he may lack capacity; and (iii) this appeal concerns his protection claim.

DECISION

1. Permission to appeal to the Upper Tribunal was granted by Judge of the First-tier Tribunal JM Holmes in a decision signed on 24 June 2021.
2. By my "Note and Directions" signed on 23 August 2021 and sent to the parties by email on the same date, I notified the parties of my provisional view:
 - (i) that, for the reasons given in the "Note and Directions", the decision of Judge of the First-tier Tribunal Manuell should be set aside in its entirety; and

- (ii) that, if Judge Manuell's decision is set aside in its entirety, this appeal should be remitted to the First-tier Tribunal for the decision on the appeal to be re-made by a Judge of the First-tier Tribunal other than Judge Manuell.
3. In the "*Note and Directions*", the parties were informed that the Upper Tribunal will proceed to issue a decision to give effect to its provisional view unless the parties objected, with reasons, by 4 pm on the fourteenth calendar day after the date of the Tribunal's notice.
 4. By a letter dated 26 August 2021 sent to the Upper Tribunal by email of the same date timed at 12:56 hrs and copied to the appellant's representatives, Mr A McVeety of the Specialist Appeals Team confirmed that the respondent agrees that the decision of the First-tier Tribunal should be set aside in its entirety and the appeal remitted to the First-tier Tribunal with no preserved findings.
 5. In an email dated 25 August 2021 timed at 13:21 hrs, Mr A Taqi of Virgo Solicitors Limited, the appellant's representatives, stated that he had noted the contents of the respondent's letter. I therefore draw the inference that the appellant does not object to the provisional view indicated in the "*Note and Directions*".
 6. For the reasons given in the "*Note and Directions*", I am satisfied that the decision of Judge Manuell involved the making of errors on points of law such that the decision to dismiss the appeal falls to be set aside. I set aside in its entirety the decision of Judge Manuell to dismiss the appeal.
 7. For the reasons given in the decision granting permission, this appeal is remitted to the First-tier Tribunal for a Judge of that Tribunal other than Judge Manuell to re-make the decision on the appellant's appeal on all issues on the merits.
 8. **Although a matter for the First-tier Tribunal, it may be necessary to hold a case management review hearing in the First-tier Tribunal in order to ascertain the evidence to be produced to establish whether the appellant has capacity and whether a litigation friend should be appointed and the likely timescales for such evidence to be produced and appointment to be made.**

Notice of Decision

The decision of Judge of the First-tier Tribunal Manuell involved the making of errors on points of law such that the decision is set aside. This case is remitted to the First-tier Tribunal for the decision on the appellant's appeal to be re-made on all issues on the merits, by a judge other than Judge of the First-tier Tribunal Manuell.

Upper Tribunal Judge Gill

Date: 3 September 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.**