



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: PA/12345/2019 (V)**

**THE IMMIGRATION ACTS**

**Heard at George House, Edinburgh  
by *Skype for Business***

**Decision & Reasons  
Promulgated  
On 09 December 2020**

**on 2 December 2020**

**Before**

**UT JUDGE MACLEMAN**

Between

**M A A**

and

Appellant

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Ms Dingwall, of Latta & Co, Solicitors

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This determination is to be read with:
  - (i) The decision of FtT Judge Landes, dated 12 April 2018, in the appellant's previous appeal, PA/01879/18.
  - (ii) The respondent's decision, dated 25 November 2019.
  - (iii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iv) The decision of FtT Judge Bell, promulgated on 1 July 2020.
  - (v) The appellant's grounds of appeal to the UT, stated in the application for permission, dated 11 August 2020.

- (vi) The grant of permission by UT Judge Keith, dated 1 September 2020.
2. I conducted the hearing from George House. Representatives attended remotely. No members of the public attended, either in person or remotely. The technology enabled an effective hearing.
  3. Representatives agreed that if either or both of the grounds were established, the result would be a remit to the FtT.
  4. I am obliged to both representatives for their succinct and accurate submissions. Having heard those, I indicated that the decision could not stand.
  5. Dealing with the grounds in the order taken by Ms Dingwall, the judge erred by stating at [74] that “no other enhanced risk factors were put forward”. The appellant had argued that there were two such matters, ethnicity and westernisation, and that those were particularly relevant in his area of origin.
  6. Mr Diwyncz accepted that there was an omission, but submitted that the nature of Iraqi society was such that this was immaterial.
  7. The second error is that the judge recorded at [31] and [62] the evidence of a witness who attended church regularly with the appellant, and interpreted for him, but gave that little or no weight at [67], stating no good reason; and effectively at [57] took the absence of evidence from a church leader as conclusive, contrary to *TF & MA* [2019] SC 81 at [58].
  8. There was no effective resistance to this ground.
  9. The grounds together require the decision of the FtT to be set aside. It stands only as a record of what was said at the hearing.
  10. The case is remitted to the FtT for an entirely fresh hearing, not before Judge Bell.
  11. The FtT made an anonymity direction. The matter was not addressed in the UT. Anonymity is preserved at this stage.



2 December 2020  
UT Judge Macleman

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**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.