



**Upper Tribunal
(Immigration and Asylum Chamber)**
HU/09884/2019 (P)

Appeal Number:

THE IMMIGRATION ACT

**Decision &
Reasons Promulgated
On 14 December 2020**

Before

UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

J R S

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND DIRECTIONS NOTICE

1. By a decision promulgated on 14 October 2020, Upper Tribunal Judge Macleman concluded that the First-tier Tribunal had materially erred in law when allowing the appellant's appeal against the respondent's refusal of his human rights claim, dated 31 May 2018. The decision of the First-tier Tribunal was duly set aside. Judge Macleman directed the parties to provide submissions as to the method by which this appeal should proceed.

2. Both parties have complied with that direction, submitting that this appeal should be remitted to the First-tier Tribunal
3. Having regard to the issues in this case, the basis of Judge Macleman's decision, and paragraph 7.2 of the Practice Statement, I agree that remittal to the First-tier Tribunal is the appropriate course of action.
4. Therefore, this appeal is remitted pursuant to section 12(2)(b) (i) of the Tribunals, Courts and Enforcement Act 2007.
5. I have considered the issue concerning whether or not the appellant re-entered the United Kingdom in breach of the deportation order. Having regard to the material is currently on file and what is said in the email from the appellant's solicitors dated 23 October 2020, I conclude that the respondent has not put forward any evidence to support the assertion that the appellant did indeed return to this country, as alleged. In addition, I have regard to paragraph 9 of the First-tier Tribunal's decision, in which is expressly found that this event did not occur.
6. In light of the above, I preserve the finding made by the First-tier Tribunal in paragraph 9 of its decision to the effect that the appellant did not re-enter the United Kingdom in breach of the deportation order. This preserved finding will be the starting point if this issue is to be addressed at the remitted hearing.

Directions to the First-tier Tribunal

- 1) This appeal is remitted to the First-tier Tribunal;
- 2) The remitted appeal shall not be heard by First-tier Tribunal Judge S Clarke;
- 3) The previous finding of the First-tier Tribunal that the appellant did not re-enter the United Kingdom in breach of the deportation order is preserved.

Directions to the parties

- 1) Both parties shall comply with any further case management directions issued by the First-tier Tribunal.

Signed: H Norton-Taylor

Date: 7 December 2020

Upper Tribunal Judge Norton-Taylor