Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: RP/00030/2019

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 5 January 2022	**On 1 February 2022**

Before

UPPER TRIBUNAL JUDGE BLUM
DEPUTY UPPER TRIBUNAL JUDGE WOODCRAFT

Between

AH
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: In person (assisted by Ms LG)
For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is a remade decision following the identification, in an 'error of law' decision dated 7 February 2020, of material legal errors in the decision of Judge of the First-tier Tribunal I Howard, promulgated on 29 October 2019, allowing the appellant's appeal against the respondent's refusal of his human rights and protection claim in a decision dated 4 May 2019, which also revoked the appellant's refugee leave. The refusal of the appellant's human rights claim and protection claim was made following the signing of a deportation order in respect of the appellant dated 28 February 2019.

Background

2. We summarise the salient features of this appeal. AH is a national of Algeria who was born in 1975. He first arrived the UK in 1991 using a forged document. He claimed asylum on 22 April 1994 after being arrested on suspicion of theft the previous day. His asylum claim was refused on 22 August 1994 and an appeal against this decision was dismissed on 16 June 1995. AH was removed to Algeria on 26 March 1996.

3. AH re-entered the UK on 3 December 1997 and claimed asylum. It was accepted that he held a well-founded fear of persecution based on his refusal to complete his military service and he was granted refugee status and Indefinite Leave to Remain ('ILR') on 14 July 1999.

4. The appellant has six children in the UK. He has a daughter born in 1999, and a son born in 2001, both to the same mother, to whom the appellant was previously married. They separated in 2001 or 2002. The appellant has another son who was born following a two year relationship with another woman after his earlier separation. He also has a daughter born from a different relationship in 2006. The appellant has a son, B, born in 2015, and a daughter, A, born in 2018. LG is the mother of A and B. The appellant and LG entered into a relationship around 2007.

5. Between 11 October 1994 and 19 June 2009, AH received 18 convictions for 28 offences. These included concurrent sentences of imprisonment of 18 months for obtaining/attempting to obtain property by deception, a sentence of 18 months imprisonment for theft and concurrent sentences of 3 months imprisonment for racially aggravated criminal damage and assault. On 16 June 2010 AH was convicted of causing grievous bodily harm ('GBH') with intent and received a sentence of 2 years and 2 months imprisonment. Between 28 September 2015 and 23 November 2016, AH received 3 convictions in respect of 4 offences (none of which resulted in custodial sentences).

6. On 14 February 2013, AH applied for naturalisation as a British citizen, but this was refused on 14 May 2013 on character grounds.

7. On 21 May 2018, the respondent sent to AH her decision to make a deportation order against him in accordance with s. 32(5) of the UK Borders Act 2007. In her decision the respondent also invoked s. 72 of the Nationality, Immigration and Asylum Act 2002 ('the 2002 Act'), which established a rebuttable presumption that AH posed a danger to the community of the UK.

8. AH made a human rights claim on 5 June 2018. His claim was primarily based on his relationship with LG, a British citizen, and their British citizen child B (who was 3 years old at the time) and on the fact that he and LG were expecting another child in November 2018. AH additionally relied on his relationships with other children he had fathered. AH also relied on his medical history, disclosing that he had received treatment for schizophrenia, anxiety and depression.

9. On 23 October 2018, the respondent wrote to AH informing him that she was considering revoking his refugee status. The respondent approached the United Nations High Commissioner for Refugees ('UNHCR') for his view of the proposed revocation. A response from UNHCR was received on 21 November 2018.

10. On 4 March 2019, the respondent sent to AH a 'Notice of Revocation of Refugee Status'. The respondent considered that AH constituted a danger to the community of the UK because he had been convicted of a particularly serious crime (the GBH conviction in 2010) and that paragraph 339AC of the Immigration Rules applied. The respondent considered that she was entitled to revoke AH's refugee status under paragraph 338A of the Immigration Rules. The respondent also decided that AH's refugee status should be revoked under paragraph 339A(v) of the Immigration Rules, which reflects Article 1C(5) of the Refugee Convention (setting out the conditions when a person ceases to be a refugee). The respondent considered that the circumstances in connection with which AH was recognised as a refugee had ceased to exist. This was because the background evidence relating to Algeria (including an Algeria Country of Information Note Response: Military Service Algeria, 4 April 2018) indicated that all men over 30 years of age were exempt from the obligation of military service. As AH was, at the time, 44 years old, he would be exempt.

11. In a further decision of the same date the respondent refused AH's human rights claim. The respondent did not accept that AH had a genuine parental relationship with either B or his children from other relationships. Nor did the respondent accept that AH had a genuine and subsisting relationship with LG. The respondent acknowledged AH's length of residence but found that he had not been lawfully resident in the UK for most of his life. It was also not accepted, considering his criminal history and the absence of evidence of any contribution made by AH to his local community, that he was socially and culturally integrated in the UK. Nor was it accepted that there would be 'very significant obstacles' to AH's integration into Algeria, or that there existed 'very compelling circumstances' warranting a grant of leave to remain in accordance with Article 8 ECHR (relating to private and family life rights). Whilst acknowledging an NHS letter outlining AH's medical history from 1996 to 2012, the respondent considered that appropriate treatment and support was available in Algeria and that AH's deportation would not breach Article 3 ECHR

(the right not the be subject to torture or inhuman or degrading treatment or punishment).

The First-tier Tribunal decision

12. AH appealed the respondent's decisions revoking his refugee status and refusing his protection and human rights claim to the First-tier Tribunal under s. 82 of the 2002 Act. His appeal was heard by Judge Howard on 20 August 2019, and Judge Howard's decision was promulgated on 29 October 2019.

13. Judge Howard heard evidence from AH, LG, SH (AH's cousin) and JA (SH's partner). The Judge noted that AH and LG now had another son, A, and noted AH's evidence that LG saw her father and brother every day and that A and B had relationships with their maternal grandfather and maternal uncle. Judge Howard recorded AH's evidence that LG "definitely get [*sic*] support from her father." In her oral evidence, LG said she talked with her father daily and that he brought things for her children, but she described her relationship with him as "broken" as she had been taken into care. If her father gave her money, he would expect it to be repaid. LG claimed she would be unable to cope if AH was deported and that she would be unable to afford to visit him. Both AH and LG claimed he had been drug-free since his release in 2012. Judge Howard recorded SH's evidence that AH's only family member in Algeria was his mother and that AH had lost contact with his siblings (who, according to LG, were in the UK) and that SH financially supported AH.

14. In his decision Judge Howard found that, despite AH's claim to be drug free since 2012 and despite undertaking an anger management course, he continued to commit offences involving violence and had not therefore rebutted the s. 72 presumption (although Judge Howard later found there had been a noteworthy reduction in the seriousness and regularity of AH's criminality and that, even if he could not say with confidence that AH had left his offending behind him, AH had nevertheless made very significant steps toward that end). Judge Howard also found that AH had no political profile in Algeria and that he had nothing to say in respect of his fear of the consequences of draft evasion. Judge Howard accepted the background evidence upon which the respondent relied indicating that AH was now of an age that did not require him to complete military service. Although he did not make any explicit finding in respect of the revocation decision, Judge Howard's factual findings relating to the issue of draft evasion underpin the revocation decision and the refusal of AH's protection claim. Judge Howard also found that, as AH had not resided lawfully in the UK for more than half his life, he was unable to meet the requirements of paragraph 399A of the Immigration Rules, reflected in s.117C(4)(a) of the 2002 Act. There has been no cross-appeal by AH

against any of these findings and no challenge to these findings was raised at the error of law hearing.

15. Judge Howard found that, despite the unorthodox living arrangements (AH lived in a separate property about 20 minutes from that occupied by LG and her children), AH had genuine parental relationships with his children and a genuine and subsisting relationship with LG. The Judge concluded that the circumstances in which LG and her children would find themselves if they had to relocate to Algeria with AH, or if they were separated from AH by reason of his deportation, would elevate the harshness of the impact of the respondent's decision on them to undue harshness.

The Upper Tribunal's 'error of law' decision

16. The respondent considered that Judge Howard made errors of law in his decision and obtained permission to appeal to the Upper Tribunal.

17. In an 'error of law' decision promulgated on 7 February 2020 the Upper Tribunal found that Judge Howard's decision involved the making of several serious errors on points of law. Judge Howard failed to adequately appreciate the nature of the unduly harsh test and its high threshold, and he failed to undertake a proper analysis of the impact of separation on LG, A and B, or to give legally adequate reasons for his findings. Judge Howard found that the relationship between AH and his partner and children would "change dramatically" if AH was deported and they remained in the UK, but the Judge failed to adequately explain how such a 'dramatic change' would reach the high threshold of undue harshness. Judge Howard found that AH played "an important role" in the lives of LG and their children and that she relied "very heavily" on him for emotional support, but the decision did not disclose or describe the details of AH's important role or how LG was "very heavily" reliant on him for emotional support.

18. Judge Howard recorded AH's evidence that the impact of his deportation on B would be devastating, but no further explanation was provided as to why this would be so. Judge Howard did not refer to any independent evidence describing or assessing the impact of AH's deportation on LG and A and B, and there was no independent evidence that either LG, A or B had medical problems or that they were otherwise vulnerable. Nor was there adequate evidence that their welfare and safety would be materially compromised if AH was deported. LG claimed she would be unable to cope if AH was deported but there was little explanation as to why this would be so. There was little analysis of the practical support that LG and her children could receive from her father and brother given AH's evidence that LG saw her father and brother every day. Nor was any account taken of assistance or support that could be provided to LG and her children,

who lived in their own property, from Social Services or the Local Authority or the NHS.

19. The Upper Tribunal considered Judge Howard's findings that AH's appearance "… was of someone who is entirely assimilated into UK culture" and that he was "… no longer familiar with Algerian culture" were unsupported by clear reasoning or evidence. Although AH had resided in the UK for a continuous period of almost 22 years at the date of the Judge's decision, he was 22 years old when he last entered this country. Judge Howard noted that AH still spoke an official language of Algeria and that his mother continued to reside there. It was unclear why, having lived in Algeria for his formative years and having re-entered the UK as an adult, AH would no longer be familiar with Algerian culture. Other than the weight of years lived in the UK, there was little evidence to support Judge Howard's finding that AH was entirely assimilated into UK culture. Judge Howard's finding that AH would receive no financial support from his family in the UK failed to take account of the evidence from SH, who indicated that he provided him with financial support, and the Judge's finding that AH would be homeless and would struggle, at least in the short-term, to find work in Algeria, failed to take into account any support or assistance that could be provided by his mother.

20. The Upper Tribunal decided to retain the appeal and to determine it at a further hearing. The following directions were issued to the parties:

    1. AH is granted permission to provide further evidence, particularly in relation to his key worker, his receipt of outpatient treatment, his medical conditions and his medication, and in respect of the impact of his deportation on his partner and his children.

    2. Both parties are to try to their best ability to obtain relevant evidence relating to AH from the probation service.

    3. Any further evidence to be provided by AH or the Home Office is to be given to the Upper Tribunal no later than 5 working days prior to the adjourned hearing.

21. The appeal was listed to be remade before the Upper Tribunal on 25 March 2020, but this was vacated due to the Covid-19 pandemic. Both the appellant and Mr Clarke, a Home Office Presenting Officer, attended a telephone Case Management Review Hearing on 8 October 2020 and directions were sent to the parties on 16 October 2020 requiring, amongst other things, the appellant to provide documents to the respondent and to provide a paginated and indexed bundle of documents of all other documents upon which he intended to rely to both the Upper Tribunal and the respondent no later than 2 weeks before the next hearing.

22. On 30 September 2021 the appellant was sent by email and by post a Notice of the resumed hearing which was listed for 28 October 2021. He failed to attend the hearing, but LG did attend. She explained that she had arranged to meet the appellant outside his house on the morning of the hearing but there had been no response to the doorbell or her attempts to telephone him. Given the serious consequences of the appeal decision and the absence of any up-to-date evidence, and the absence of any probation service evidence, Mr Clarke, who again appeared for the respondent at the hearing, accepted that the hearing could not go ahead.

23. The hearing was adjourned and the following directions issued to the parties and to LG:

    (a) **AH must try to obtain <u>all</u> relevant evidence from the Probation Service that would help the Tribunal in deciding his appeal.**

    (b) **AH must also try to obtain more up-to-date documentary medical evidence about his current physical and mental health. This evidence is important as it will also help the Tribunal in deciding his appeal.**

    (c) **The appellant must also try to obtain all other documentary evidence about his current circumstances, including his relationship with LG and their children, and any other relationship he has with other people who are living in this country. The evidence from LG and any other person should be in the form of a statement.**

    (d) **The appellant must also try to obtain any other documentary evidence of the nature and extent of his life in this country, including his involvement with the community.**

    (e) **All of the evidence set out above at points (a) to (d) above should be put in a bound, paginated and indexed bundle and sent to both the Secretary of State and the Upper Tribunal no later than 1 week before the next hearing. The bundle of documents is to be sent to the Secretary of State at the address provided by Mr Clarke at the adjourned hearing on 28 October 2021.**

    (f) **There will be a 'face-to-face' hearing, observing all necessary precautions in respect of the Covid-19 pandemic, on the first available date 5 weeks after these directions are sent.**

<u>The re-making hearing</u>

24. The appellant attended the hearing together with LG and A. The only new evidence that was provided by the appellant were recent medication prescriptions. The appellant was prescribed Hyoscine butyibromide, Salbutamol, Sertraline, Chlorpromazine,, Omeprazole, and Paracetamol. The appellant was dishevelled and appeared agitated and anxious, and, at times, was fatalistic in his responses. The Tribunal were satisfied the appellant should be treated as a vulnerable individual and appropriate instructions were given to Mr Lindsay. Although the appellant began giving his evidence in LG's absence, later Mr Lindsay, fairly in our view, indicated that he was content for LG to sit next to the appellant while he finished his evidence.

25. We have considered several documents that were already in the case file including several statements/letters written by the appellant, and letters written by LG including one dated 10 June 2019 and another dated 30 October 2018, and various letters from individuals who attest to the appellant's character. We have also taken into account several certificates obtained by the appellant whilst he was imprisoned for the GBH offence relating to anger, stress and drug issues. Also included in the file was a letter written by LG on 5 May 2015 relating to a refusal of visitor entry clearance applications by the appellant's mother and nephew, and a Home Office letter dated 27 June 2013 confirming that the appellant's naturalisation application was refused because of his conviction on 16 June 2010.

26. We have read several medical documents including a letter dated 4 June 2018 from Dr Edward Chesney, a Senior House Officer to a Consultant Psychiatrist, indicating a diagnosis of Personality Disorder (unspecified), and Mental and behavioural disorder due to opioids and cocaine with a dependence syndrome. The letter indicated that the appellant had attended Lorraine Hewitt House (housing Lambeth Addictions Community Drug and Alcohol Service, which offers drug and alcohol addiction services) on 1 June 2018 for triage and medical assessment of his heroin and crack cocaine use. It stated that he has been using heroin since he was 14 years old, was currently smoking around £25 a day, and had last used heroin 12 hours previously. The letter indicated that he also smoked around £35 worth of crack cocaine each day, and that he also smoked cannabis daily. This was clearly inconsistent with the evidence before Judge Howard that the appellant had been drug-free since 2012. The appellant's past medical history included physical traumas/injuries, and Dr Chesney described a history of low mood, voices and self-harm. The appellant reported one previous suicide attempt by hanging whilst in prison. The letter claimed the appellant had no contact with his 5 children or other dependents. No reference was made to LG in the letter. The letter set out a list of the appellant's medication and indicated that he had been assigned a key worker.

27. A letter from Stephen Gordon of the Shared Care Team at Lorraine Hewitt House dated 29 March 2019 indicated that the appellant had been engaging with Lorraine House for support for his drug addiction since 2012, that he was receiving counselling and opiate prescribing in the Shared Care Team based at his GP Surgery, and that he attended for counselling sessions monthly. The appellant had attended all of his treatment sessions and engaged fully.

28. We have also considered printouts of the appellant's medical records in respect of his GP practice from 2016 to February 2020 setting out the medication prescribed to the appellant and detailing his consultation (on 5 April 2019) relating to suicidal ideation. Earlier consultations in January and March 2019 described the appellant as being very anxious and depressed about his immigration status. Previous consultations in May 2018 described the appellant as having a suicidal ideation. Active problems included drug addiction therapy (16 May 2017), piles (April 2017), suicidal ideation (22 September 2016), schizophrenic disorders (15 June 2007), and depression. A letter from the appellant's GP dated 29 December 2017 referred to past problems including depression and mental illness in 2003, anxiety with depression in August 20005, and schizophrenic disorders in June 2007. There were several other medical documents relating to the appellant suffering from haemorrhoids.

29. Also in the file documents was a document dated 2018 indicating that the appellant received Employment and Support Allowance and that he was regarded as 'severely disabled', although no details of the disability were provided.

30. We recorded the oral evidence from the appellant and LG and the oral submissions made by LG on behalf of the appellant and by Mr Lindsay. We have read and considered with care all the documents before us even if they are not specifically identified later in this decision. Both parties are aware of the evidence, both written and oral, that was before the Tribunal. This evidence is, in any event, a matter of record. We shall refer to this evidence only in so far as it is necessary for us to lawfully determine the appellant's human rights appeal.

31. During the hearing neither party objected to our indication that we would look at the most recent Country Policy and Information Notes (CPIN) prepared by the Home Office in respect of Algeria to ascertain whether there was any relevant information on the availability of medical or drug dependency treatment for the appellant. In the event Mr Lindsey directed us to the 'Country Policy and Information Note - Algeria: Internal relocation and background information (September 2020)'.

32. During the hearing Mr Lindsay undertook to provide both the appellant and the Upper Tribunal with a copy of the appellant's Police National Computer (PNC) Record setting out his criminal conviction history. This was provided to the Upper Tribunal and LG on 7 January 2022.

Legal framework

33. Section 117A of the 2002 Act provides, insofar as material, that:

> ...
>
> (2) In considering the public interest question, the court or tribunal must (in particular) have regard –
>
> (a) in all cases, to the considerations listed in Section 117B, and
>
> (b) in cases concerning the deportation of foreign criminals, to the considerations listed in Section 117C.
>
> (3) In subsection (2), "the public interest question" means the question of whether an interference with a person's right to respect for private life and family life is justified under Article 8(2).

34. Section 117B lists certain public interest considerations to which the court or tribunal must have regard in all such cases. These include the considerations that:

> (1) The maintenance of effective immigrations controls is in the public interest.
>
> (2) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—
>
> (a) are less of a burden on taxpayers, and
>
> (b) are better able to integrate into society.
>
> (3) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—
>
> (a) are not a burden on taxpayers, and
>
> (b) are better able to integrate into society.

(4) Little weight should be given to –

(a) a private life, or

(b) a relationship formed with a qualifying partner,

that is established by a person at a time when the person is in the United Kingdom unlawfully.

(5) Little weight should be given to a private life established by a person at a time when the person's immigration status is precarious.

...

35. Section 117C is entitled “Article 8: additional considerations in cases involving foreign criminals” and provides that:

(1) The deportation of foreign criminals is in the public interest.

(2) The more serious the offence committed by a foreign criminal, the greater is the public interest in deportation of the criminal.

(3) In the case of a foreign criminal ("C") who has not been sentenced to a period of imprisonment of four years or more, the public interest requires C's deportation unless Exception 1 or Exception 2 applies.

(4) Exception 1 applies where -

(a) C has been lawfully resident in the United Kingdom for most of C's life,

(b) C is socially and culturally integrated in the United Kingdom, and

(c) there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.

(5) Exception 2 applies where C has a genuine and subsisting relationship with a qualifying partner, or a genuine and subsisting parental relationship with a qualifying child, and the effect of C's deportation on the partner or child would be unduly harsh.

(6) In the case of a foreign criminal who has been sentenced to a period of imprisonment of at least four years, the public interest requires deportation unless there are very compelling

circumstances, over and above those described in Exceptions 1 and 2".

36. The statutory framework is a "complete code" and the "...the entirety of the proportionality assessment required by article 8 can and must be conducted within it": In HA (Iraq) v SSHD [2020] EWCA Civ 1176, at [27].

Findings of fact and conclusions

Exception 1:

Lawful residence in the UK for most of the appellant's life

37. The appellant cannot meet the requirements of s.117C(4)(a). Although he previously entered the UK in 1991, he was removed to Algeria in March 1996. He re-entered the UK approximately 1 year and 8 months later in December 1997. His earlier period of residence from 1991 to 1996 was not lawful. The appellant was granted ILR on 14 July 1999. The effect of the deportation order, signed on 28 February 2019, was to invalidate the appellant's ILR. Even counting the period of time since December 1997 until he was granted ILR as lawful leave, the appellant has resided in the UK lawfully for a period of approximately 21 years and 3 months. As he is 46 years old, he has not lived in the UK lawfully for more than half of his life.

Social and cultural integration

38. At paragraph 58 of CI (Nigeria) v SSHD [2019] EWCA Civ 2027 Lord Justice Leggatt noted that a person's social identity,

> "... is constituted at a deep level by familiarity with and participation in the shared customs, traditions, practices, beliefs, values, linguistic idioms and other local knowledge which situate a person in a society or social group and generate a sense of belonging."

39. And at paragraph 79 his Lordship stated,

> "The phrase "socially and culturally integrated in the UK" is a composite one, used to denote the totality of human relationships and aspects of social identity which are protected by the right to respect for private life. While criminal offending may be a result or cause of a lack or breakdown of ties to family, friends and the wider community, whether it has led or contributed to a state of affairs where the offender is not socially and culturally integrated in the UK is a question of fact, which is not answered by reflecting on the description of criminal conduct as "anti-social"".

40. Although the appellant first entered the UK as a 15 or 16-year-old in 1991, and, barring the period of approximately 1 year and 8 months when he was removed to Algeria before re-entering the UK, he has resided in this country for approximately 29 years. This is a significant

period and is clearly a relevant factor we take into account when assessing whether the appellant is culturally and socially integrated. We note that he speaks fluent English, that he has been married, and that he has fathered 6 children in the UK, and that he has a relationship with LC (although the nature of the relationship has evolved since the First-tier Tribunal's decision).

41. There is however little evidence that the appellant has any current familiarity with or participation in societal customs, practices, or values such as to situate him in civil society or to generate a sense of belonging. At the remaking hearing the appellant candidly admitted that he continued to take heroin and crack cocaine, and he stated that his drug dependency had destroyed his life. The appellant has not attended school in the UK or obtained any educational qualifications (the evidence from LG and some of the medical documents indicate that he is illiterate) and there is little if any evidence that he has been employed. At the remaking hearing the appellant said he had not worked "for a long time." There is no evidence of the appellant's involvement in societal groups, organizations or activities other than those relating to his current drug addiction, and, other than LG's evidence that the appellant previously hoped to become a mentor to other victims of drug abuse, no evidence that he has made any positive contribution to society. The appellant claimed he had sold all his possessions to finance his current drug dependency.

42. The evidence before us at the date of the hearing indicates that the appellant is now estranged from his cousin SH and that he has no relationship with his siblings living in the UK, although we acknowledge that his cousin previously gave evidence on the appellant's behalf before the First-tier Tribunal, and that LG said the appellant had been trying to rebuild his relationship with his siblings prior to his relapse. Other than LG, whose own relationship with the appellant has become strained through his drug dependency, and their children, there was no independent evidence that the appellant has established or maintained any other social relationships. We note that the appellant said he was trying to build a relationship with one of his sons who was 19 years old, although the appellant last saw him 3 months previously. There was no evidence from this son.

43. We again acknowledge the evidence given before Judge Howard that the appellant was previously married, a relationship that, according to the evidence before Judge Howard, ended in 2001 or 2002 as a consequence of the appellant's drug addiction, and his claim to have previously maintained contact with 3 of his other children via Facebook. At the remaking hearing the appellant said he did not talk to his adult children. The appellant informed Judge Howard that he had been drug-free following his release from prison in 2012, but this was inconsistent with the evidence detailed at paragraph 26 above

that he had been engaging with Lorraine House for support for his drug addiction since 2012, and that he had been triaged and medically assessed for drug dependency in 2018.

44. We additionally note the appellant's history of offending between October 1994 and 4 March 2021, some of which appears to have been related to the appellant's drug dependency. At the remaking hearing the appellant claimed that he had not committed any criminal offence for a long time and that he didn't "do things like that" anymore. This is not however borne out by the PNC printout which indicates he was convicted for a public order offence and an offence of assault by beating of an emergency worker in 2021. We note that the appellant's various periods of imprisonment weaken his integrative links, but we exercise caution in double counting this offending. Having cumulative regard to the evidence before us, and noting that the rational behind the test in whether the appellant has a private life of sufficient substance to engage Article 8, we find that, despite the appellant's lengthy residence in this country, he is not, at the date of our decision, culturally and socially integrated.

"very significant obstacles"

45. In SSHD v Kamara [2016] EWCA Civ 813 and AS v SSHD [2017] EWCA Civ 1284 the Court of Appeal considered the concept of "integration" for the purposes of s.117C(4)(c).

46. In Kamara Sales LJ, with whom Moore-Bick LJ agreed, stated at [14]:

> "In my view, the concept of a foreign criminal's "integration" into the country to which it is proposed that he be deported, as set out in section 117C(4)(c) and paragraph 399A, is a broad one. It is not confined to the mere ability to find a job or to sustain life while living in the other country. It is not appropriate to treat the statutory language as subject to some gloss and it will usually be sufficient for a court or tribunal simply to direct itself in the terms that Parliament has chosen to use. The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life."

47. At [58] and [59] of AS Moylan LJ rejected a submission that so-called 'generic' factors, such as intelligence, health, employability and general robustness of character, were irrelevant when assessing a foreign criminal's ability to integrate and held that such factors can be relevant to whether there are "very significant obstacles to integration" as they form part of the "broad evaluative judgment". The Court of Appeal rejected a submission that whether someone is

"enough of an insider" is to be determined by reference to their ties to the country of proposed removal.

48. Further, unless there is cogent evidence that the foreign criminal has a relationship with another person in the UK where there is a material degree of reliance or dependency by the foreign criminal, such that he would not have the capacity to participate in society in the country of return, or where there is cogent evidence that the foreign criminal needs the close support of the person in the UK in order to function on a day-to-day basis, the foreign criminal's relationships with individuals in the UK will not be a sufficiently relevant factor in determining very significant obstacles.

49. At the date of the remaking hearing the appellant had, according to LG, relapsed into drug dependency two years previously. We note that in 2018 the appellant was already being treated for drug dependency, which is inconsistent with his claim at the First-tier Tribunal that he had been drug-free since 2012. The evidence before us suggests that the appellant has been dependent on illicit drug for longer than the last two years, although we are prepared to accept that there was a steep increase in his dependency approximately two years ago.

50. At the remaking hearing the appellant claimed that he did not know whether his elderly mother was still alive, and he did not have a telephone number for her. He claimed he has no contact with anyone in Algeria and, when asked whether he would be able to work in Algeria, the appellant said he did not have anything and would not be able to stay anywhere. LG said the appellant's mother was being cared for by her relatives, but the appellant did not know them. We note that the appellant's mother and nephew unsuccessfully attempted to visit the UK in 2015, suggesting that the appellant previously had contact details for both his mother and nephew and was in contact with both. We are however prepared to accept that, due to his current drug dependency, he may not retain contact with either his mother or nephew in Algeria.

51. LG believes that the appellant's deportation to Algeria would result in a deterioration in his mental health and that he would be unable to access medication as he is illiterate, and he would not be able to afford treatment. She is very concerned as to his welfare if he were deported. We are however in some difficulty in ascertaining the true picture of the appellant's circumstances and needs given the absence of any further evidence relating to his medical conditions and his drug dependency other than some newly issued prescriptions. Whilst the appellant maintains that he has a key worker in respect of his drug dependency, a point support by reference to some of the medical documents, there is no letter or statement from this key worker concerning the appellant's current circumstances. Nor is there any new up to date medical evidence relating to the appellant's physical and mental health needs. The evidence relating to his diagnosis of

schizophrenia and his unspecified Personality Disorder is vague and spartan, and there is no cogent evidence relating to his earlier suicidal ideation, or indicating that he continues to suffer from any suicidal ideation.

52. Nor has the appellant provided any independent evidence concerning the availability of medication to treat his mental health issues and his drug dependency, or any evidence in respect of drug treatments available in Algeria. It is not for the Tribunal to conduct its own research, but neither party objected to us considering the most recent CPIN 'Algeria: Internal relocation and background information (September 2020)', which deals, at least to a limited extent, with healthcare in Algeria at section 12. At 12.1.1 reference is made to a 2017 report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on his visit to Algeria:

> "'The health-care system has posted impressive results in making care available and accessible, with strengthened infrastructure, equipment and workforce. The population has financial coverage for most of the basic health services, which has contributed to a significant improvement in health indicators over the past decades."

53. The section on mental health at 12.2.2 referenced a report by the UN Special Rapporteur on Physical and Mental Health which noted,

> "'The updated Mental Health Policy 2016-2020 covers prevention, treatment and rehabilitation with an intersectoral and a life course approach, in line with WHO Mental Health Action Plan (2013-2020) […] Previous mental health policies reportedly faced challenges in their implementation […]
>
> 'The mental health sector in Algeria is excessively reliant on psychiatric hospitals and inpatient care. Instead of building new psychiatric hospitals, each general hospital should have an inpatient psychiatric unit to make mental health care more accessible to all and avoid stigmatization. Although the availability of mental health services in primary-care centres has increased in recent years, with 129 centres providing such services, additional steps should be taken to reinforce outpatient services within general hospitals and reduce dependency on hospital care. There should be a shift in mental health services and public investments in the community, with initiatives grounded in human rights and modern principles of mental health policy and based on quality services and the empowerment of users.'"

54. The limited evidence we have been able to access with the consent of the parties does not expressly deal with whether medication for the appellant's mental health conditions is available for free in Algeria, or, if there is a cost, how much that is likely to be. The evidence does however indicate that mental health care is available, albeit that its focus is hospital based. There is no evidence before us either way as

to the availability of treatment for those dependent on illicit drugs. We remind ourselves that it is for the appellant to demonstrate, on the balance of probabilities, the existence of very significant obstacles.

55. LG explained that she would be unable to provide the appellant with financial support as she was struggling on benefits and had two young children to look after. She explained that she grew up in the care system and the only support she received was from her brother. We accept that LG would be unable to provide any financial support for the appellant. It is however possible for the appellant to make an application under the Facilitated Return Scheme for a reintegration package, details of which were set out at the top of the decision letter refusing his protection and human rights claim. Anyone accepted on the scheme is given a pre-paid cash card on departure containing £500.

56. We are additionally concerned that the appellant, who was gaunt and visibly agitated during the hearing, may struggle, as a result of his drug addiction and his mental health issues, to obtain employment and accommodation in Algeria, and to access any available medical treatment and support for his drug addiction that may exist in Algeria, especially in the absence of any evidence of a support network (accepting the appellant's account that he has no contact with his mother or nephew). We note however that the appellant's illiteracy and his drug dependency has not stopped him from having the wherewithal to be able to access appropriate treatment in the UK. He is currently able to obtain his prescriptions and had lived on his own for a number of years. He lived in Algeria for the first 15 or 16 years of his life, and for a period of some 1 year and 8 months before his re-entry into the UK, so he would have some familiarity with the country and the culture. It remains open to him to try to re-engage with his family in Algeria who may be able to offer at least some basic assistance.

57. We have found it difficult to determine whether the appellant would face very significant obstacles on his return to Algeria because of the limited evidence of the availability of support that may be available to him from the Algerian authorities in respect of his medical issues and his drug dependency. We are ultimately persuaded, but only just, that, due to his relative isolation, his general health and his drug dependency, coupled with his relative vulnerability and the length of time that he has been away from Algeria, that he would encounter very significant obstacles if deported to Algeria.

Exception 2: "unduly harsh"

58. In KO (Nigeria) [2018] UKSC 53Lord Carnwath considered the meaning of "unduly harsh" for the purposes of s.117C(5). At [23] he stated:

> "On the other hand, the expression 'unduly harsh' seems clearly intended to introduce a higher hurdle than that of 'reasonableness' under section 117B (6), taking account of the public interest in the deportation of foreign criminals. Further the word 'unduly' implies an element of comparison. It assumes that there is a 'due' level of 'harshness', that is a level which may be acceptable or justifiable in the relevant context. 'Unduly' implies something going beyond that level. The relevant context is that set by section 117C (1), that is the public interest in the deportation of foreign criminals. One is looking for a degree of harshness going beyond what would necessarily be involved for any child faced with the deportation of a parent. What it does not require in my view (and subject to the discussion of the cases in the next section) is a balancing of relative levels of severity of the parent's offence, other than is inherent in the distinction drawn by the section itself by reference to length of sentence. Nor (contrary to the view of the Court of Appeal in *IT (Jamaica) v Secretary of State for the Home Department* [2016] EWCA Civ 932, [2017] 1 WLR 240, paras 55, 64) can it be equated with a requirement to show 'very compelling reasons'. That would be in effect to replicate the additional test applied by section 117C (6) with respect to sentences of four years or more."

59. In HA (Iraq) v SSHD [2020] EWCA Civ 1176 Underhill LJ explained at [44]

> "…"unduly" is directed to the *degree* of harshness required: some level of harshness is to be regarded as "acceptable or justifiable" in the context of the public interest in the deportation of foreign criminals, and what "unduly" does is to provide that Exception 2 will only apply where the harshness goes beyond that level. Lord Carnwath's focus is not primarily on how to define the "acceptable" level of harshness. It is true that he refers to a degree of harshness "going beyond what would necessarily be involved for any child faced with the deportation of a parent", but that cannot be read entirely literally: it is hard to see how one would define the level of harshness that would "necessarily" be suffered by "any" child (indeed one can imagine unusual cases where the deportation of a parent would not be "harsh" for the child at all, even where there was a genuine and subsisting relationship). The underlying concept is clearly of an enhanced degree of harshness sufficient to outweigh the public interest in the deportation of foreign criminals in the medium offender category."

and later at [51] –[53]:

> "…The underlying question for the Tribunals is whether the harshness which the deportation will cause for the partner and/or child is of a sufficiently elevated degree to outweigh that public interest in the deportation of foreign criminals.
>
> ….
>
> 53… It is inherent in the nature of an exercise of the kind required by Section 117C (5) that Parliament intended that Tribunals should in each case make an informed evaluative assessment of whether the effect of

> the deportation of the parent or partner on their child or partner would be 'unduly harsh' in the context of the strong public interest in the deportation of foreign criminals; and further exposition of that phrase will never be of be of more than limited value."

60. Underhill LJ went on at [56] and [57] to say that the test does indeed require a foreign criminal to establish a degree of harshness going beyond a threshold "acceptable" level. It will go beyond what would necessarily be involved for any child faced with the deportation of a parent but that does not mean that there is an identifiable baseline impact which is acceptable. The effect on a child will depend on an almost infinitely variable range of circumstances. Decision-makers must carry out a fact-sensitive assessment evaluating the impact of a foreign criminal's deportation on his children and then deciding whether the effect is not merely "harsh" but "unduly harsh". By way of example only, the degree of harshness of the impact "may be affected by the child's age; by whether the parent lives with them…; by the degree of the child's emotional dependence on the parent; by the financial consequences of his deportation; by the availability of emotional and financial support from a remaining parent and other family members; by the practicability of maintaining a relationship with the deported parent; and of course by all the individual characteristics of the child".

61. We also bear in mind that section 55 of the Borders, Citizenship and Immigration Act 2009 mandates that the best interests of any relevant child must be a must be a primary consideration, although not always the only primary consideration and the child's best interests do not of themselves have the status of the paramount consideration and can be outweighed by other factors (ZH (Tanzania) v SSHD [2011] UKSC 11).

62. Mr Lindsay indicated that this appeal was only concerned with whether the impact on LG and A and B would be unduly harsh on the basis that they remained in the UK if the appellant was deported. It was essentially conceded that it would be unduly harsh to expect LG and/or her children to relocate to Algeria in order to maintain their relationship with the appellant.

Whether the appellant's deportation would be unduly harsh on LG

63. The evidence at the First-tier Tribunal from the appellant and LG was to the effect that, although they did not cohabit, the appellant saw LG and A and B every day as this was the best way to manage his mental health, particularly his anxieties. On this basis Judge Howard found that the appellant and LG were in a genuine and subsisting relationship. At the date of the hearing to remake the decision there had been a material change in the nature of the relationship. The evidence from both LG and the appellant was generally consistent as to the current nature of their relationship. The appellant and LG would

communicate by telephone approximately twice a week, and the appellant would see LG and their two children in a park on the occasions that he felt better. The appellant described his relationship with LG as “not good”, and he was unhappy about this. LG explained that there had not been a relationship for the last two years as she had to step away from the appellant because of his relapse. LG explained, in emotional terms, that she could not be around the appellant and had to end the relationship.

64. It was clear to us that although the relationship, as previously found by Judge Howard had ended, LG still very much cares for the appellant, and we are prepared to find that the appellant also cares greatly for her and for his children. Their relationship however has become untenable due to the appellant’s persisting drugs dependency. Whilst the nature of the relationship between the appellant and LG has materially weakened, we are nevertheless still prepared to find that there continues to exist a relationship that is of sufficient strength to attract the protection of Article 8. It is in this context that we must determine whether the impact of the appellant’s deportation would be unduly harsh on LG.

65. Judge Howard heard evidence from the appellant that LG saw her father and brother every day and that she received support from her father, and LG confirmed in her evidence before the First-tier Tribunal that her father brought things for her children. It was not suggested before us that this situation had altered. In her evidence before us LG indicated that she received support from her brother. We find that this support could continue if the appellant was deported. We note that LG does not work and that she is in receipt of state benefits. There was no suggestion by LG, or otherwise any indication, that she would not continue to be entitled to support from the Social Services, her Local Authority or NHS if the appellant were deported. Contrary to her evidence before Judge Howard that she would ‘not be able to survive’ without the appellant’s support, LG has been able to ensure her own welfare and safety as well as that of her to children without support from the appellant for the last two years, although we appreciate that this would not have been easy for her. On the basis of LG’s evidence, the appellant has provided little in the way of support to her and her children. We are not consequently persuaded that the appellant’s deportation would have an unduly harsh impact on LG.

The best interests of A na d B and whether the appellant’s deportation would be unduly harsh on A or B

66. In her evidence LG said that the appellant’s deportation would have a particularly negative impact on her son B. The appellant had been part of B’s life until he turned 4 and B remembered the good times he had with his father. B is now 6 years old and continues to ask, “How’s daddy?” We observed the appellant’s interaction with A at the hearing

(B was at school). A appeared comfortable with the appellant and vice versa. We take account of the evidence from both the appellant and LG to the effect that he speaks to his children by telephone approximately once a week and that he occasionally sees them in a park when he is feeling better. There was no suggestion before us that LG was not ensuring the safety and welfare of A and B, and indeed she appeared to us to be a wholly responsible parent whose paramount concern was ensuring the best interests of her children. the children appear to be exclusively her responsibility.

67. The appellant has very limited current contact with his children, although we acknowledge both his wish and that of LG that, once his drugs dependency is broken, he is able to have a much greater involvement in their lives. We must exercise considerable caution in determining the children's best interests given the appellant's drugs dependency. We are however prepared to find that it is in their best interests for the appellant to remain in the UK and that they maintain contact with their father, albeit that that contact is highly dependent on his state of health.

68. The children's best interests are a primary, but not a paramount consideration. Given the limited interaction the children currently have with the appellant, and in the absence of any evidence that either child has any health or other difficulties or vulnerabilities, and in the absence of evidence that either child is particularly dependent on the appellant for their emotional, material or physical needs, and in the absence of any cogent evidence that the appellant would be unable to maintain contact with his children at least through remote means, we find that the impact of the separation caused by the appellant's deportation on the children would not be unduly harsh.

"Very compelling circumstances"

69. If a foreign criminal cannot come with Exceptions 1 or 2 in s.117C, he can only succeed if he shows that there are "very compelling circumstances" over and above Exceptions 1 and 2 so as to outweigh the public interest in his deportation.

70. A foreign criminal is entitled to rely on matters falling within the scope of the circumstances described in Exceptions 1 and 2. He would, however, need to be able to point to features of his case of a kind mentioned in Exceptions 1 and 2, or features falling outside the circumstances described in those Exceptions, which make his claim based on Article 8 ECHR especially strong. In NA (Pakistan) v SSHD [2016] EWCA Civ 662 the Court of Appeal gave the following guidance (at [32]):

> "… in the case of a medium offender, if all he could advance in support of his Article 8 claim was a "near miss" case in which he fell short of bringing himself within either Exception 1 or Exception 2, it would not

> be possible to say that he had shown that there were "very compelling circumstances, over and above those described in Exceptions 1 and 2". He would need to have a far stronger case than that by reference to the interests protected by Article 8 to bring himself within that fall back protection. But again, in principle there may be cases in which such an offender can say that features of his case of kind described in Exceptions 1 and 2 have such great force for Article 8 purposes that they do constitute very compelling circumstances whether taken by themselves or in conjunction with other factors relevant to Article 8 but not falling with the factors described in Exceptions 1 and 2."

71. The threshold for establishing 'very compelling circumstances' is a high one. In Hesham Ali v SSHD [2016] UKSC 60 the Supreme Court stated that in a case where a foreign criminal cannot come within Exceptions 1 or 2 "great weight should generally be given to the public interest in the deportation of such offenders, but … it can be outweighed, applying a proportionality test, by very compelling circumstances: in other words, by a very strong claim indeed". The Supreme Court in Hesham Ali at [38] and the Court of Appeal in HA (Iraq) at [32] both stressed the need to respect the "high level of importance" which the legislature attaches to the deportation of foreign criminals.

72. When considering whether there are very compelling circumstances, we must assess the weight that attaches to the public interest. In Akinyemi v SSHD (No. 2) [2019] EWCA Civ 2098 the Court of Appeal stated at [45] that the public interest is "minimally fixed" as it "can never be other than in favour of deportation". Later the Court of Appeal went on to say at [50]:

> "In my judgment there can be no doubt, consistent with the Strasbourg jurisprudence, that the Supreme Court has clearly identified that the strength of the public interest will be affected by factors in the individual case, i.e. it is a flexible or moveable interest not a fixed interest. Lord Reed provides the example at [26] of a person who was born in this country as a relevant factor. Applying this approach to the weight to be given to the public interest in deportation on the facts of this case could lead to a lower weight being attached to the public interest."

73. In HA (Iraq) the Court of Appeal stated at [92] that "a potential deportee can rely, as part of the overall proportionality assessment, on the fact that his offence was at or near the bottom of the scale of seriousness" but cautioned at [93] that:

> "It cannot be the case that an appellant can rely on the fact that his offence attracted a sentence of, say, "only" twelve months as sufficient by itself to constitute very compelling circumstances for the purpose of section 117C (6): that would wholly subvert the statutory scheme. But if there were other compelling circumstances in his case the fact that his offence was comparatively less serious could form an element in his

> overall case that the strong public interest in deportation was outweighed."

74. The Strasbourg cases of particular relevance are well known. They include Boultif v Switzerland (2001) 33 EHRR 50, Üner v Netherlands (2007) 45 EHRR. 14 and Maslov v Austria [2009] INLR 47. The factors identified in [57] and [58] of Üner have been approved subsequently in both European and domestic case law and are uncontentious. These include, the nature and seriousness of the offence(s) committed by the foreign criminal, the length of the foreign criminal's stay in the country from which he is to be expelled, the time elapsed since the offence(s) was/were committed and the foreign criminal's conduct during that period, and the solidity of social, cultural and family ties with the host country and with the country of destination.

75. Taking into account the various and competing considerations set out above, the basic task for any tribunal or court, as identified by Lord Reed JSC in Hesham Ali at [50] is as follows:

> "In summary, therefore, the tribunal carries out its task on the basis of the facts as it finds them to be on the evidence before it, and the law as established by statute and case law. Ultimately, it has to decide whether deportation is proportionate in the particular case before it, balancing the strength of the public interest in the deportation of the offender against the impact on private and family life. In doing so, it should give weight to Parliament's and the Secretary of State's assessments of the strength of the general public interest... and also consider all factors relevant to the specific case in question."

Factors in favour of deportation

76. AH is a foreign criminal. It is, therefore, in the public interest that he be deported (section 117C(1)). The public interest includes the need to protect society from those who have engaged in serious criminal behaviour and who pose a danger to society, deter criminal behaviour, discourage foreign nationals in the UK from believing that they can commit serious crimes and yet be allowed to remain, and to maintain public confidence in the immigration system and in respect of all these issues.

77. Although we do not have any details of the appellant's index offence of GBH for which he was convicted in 2010 (we have not been provided with any description of this offence, and we do not have a copy of any probation report that may have been written or the Sentencing Judge's remarks), we note from the general nature of the offence and the appellant's actual sentence that it was serious given his sentence of 2 years imprisonment.

78. We have additionally taken account of the appellant's history of offending. This includes several periods of imprisonment (3 months imprisonment for an assault occasioning Actual Bodily Harm in 2000; 18 months imprisonment for obtaining property by deception in 2001 [this was varied to a prison sentence in 2002 after the appellant breached a community rehabilitation order]; 2 months imprisonment for obtaining property by deception in 2002; 18 months imprisonment for theft in 2002; 3 months concurrent sentences for racially aggravated criminal damage, common assault and racially aggravated common assault in 2005; 9 months sentence of imprisonment for theft in 2006), as well as various fines, conditional discharges, suspended prison sentences, community orders and drug rehabilitation requirements in respect of offences relating to shoplifting, obtaining property by deception, common assault, assault on the police, public order offences, possession of controlled drugs, and having a bladed article or an article that was sharply pointed in a public place.

79. Following the appellant's release in 2012 from his period of imprisonment for his GBH offence he was convicted of common assault in September 2015 for which he received a conditional discharge for 18 months, and then he was convicted of assaulting a constable and breach of the earlier condition discharge and received a fine. On 23 November 2016 the appellant was fined £200 in respect of a public order offence.

80. In 2021 the appellant was convicted of using threatening, insulting words/behaviour or disorderly behaviour to cause harassment/alarm/distress, and a separate offence of assault by beating of an emergency worker. He received a sentence of suspended imprisonment of 6 weeks for the first offence, and a sentence of suspended imprisonment for 8 weeks in respect of the second offences, both wholly suspended for 12 months. A drug rehabilitation requirement was also imposed. This conviction indicates that the appellant continues to pose a risk to the general public, and supports the First-tier Tribunal's unchallenged decision to uphold the s.72 certificate. The appellant has admitted to currently taking heroin and crack cocaine. We additionally take into account that drug addiction itself creates a risk of further offending.

Factors against deportation

81. We note that the appellant was convicted for his index offence over 11 years ago. His subsequent offending has not matched the seriousness of his index offence, although he continues to commit offences, including offences of violence, and therefore continues to pose a danger to the public.

82. We have also taken into account the unexplained delay by the respondent in making the decision to deport the appellant. The respondent was aware of the appellant's criminal history, and in particular his conviction for his index offence, as an application for naturalisation was refused on 'good character' grounds in February 2013, which was confirmed in a Home Office letter dated 27 June 2013. Yet it took the respondent over 7 years to decide to deport the appellant. It is clear from EB (Kosovo) [2008] UKHL 41 that a delay may enable an individual to demonstrate that they have genuinely rehabilitated, or that they have developed closer personal and social ties and establish deeper roots in the community, and that if months or years pass without an attempt made to remove an individual an expectation will grow that the authorities do not intend to remove the person, and that a significant and unexplained delay may reduce the weight to be attached to the public interest. Whilst the evidence of continuing offending does not suggest that the appellant has rehabilitated, we are satisfied that it has allowed for closer ties to have been developed, not least in the form of the birth of the appellant's two children. We find the delay reduces the weight we attach to the public interest.

83. Although the relationship between the appellant and LG, and between the appellant and his children, has weakened since the decision of Judge Howard, we nevertheless find that there is a family life relationship between them, and that the appellant's deportation interferes with those relationships. We additionally take into account our finding that the appellant would encounter very significant obstacles if deported to Algeria by reason of his drug dependency and his mental health problems. We additionally take into consideration the length of time the appellant has lived in the UK (approximately 29 years), and the lack of any family support network he currently has in Algeria, although we note that he could attempt to re-establish contact with his family.

Conclusion on 'very compelling circumstances'

84. We have balanced the factors in favour of the appellant's deportation with those against. In balancing out the competing factors we acknowledge the considerable difficulties the appellant is likely to encounter if deported to Algeria. We have not however been provided with evidence that there will be no or inadequate support in Algeria for the appellant's drug dependency, or that he would not be able to afford or access medication or treatment for his mental health issues. We attach particular weight to the appellant's overall history of offending, notwithstanding that he was convicted for his index offence in 2010 and the unexplained delay in making the deportation decision. We also place particular weight on the appellant's current drugs dependency, which establishes a continuing risk of harm to the public and his continuing offending. Whilst it is in the children's best

interests that he continues to live in the UK, given the current state of his relationship with them, and his relationship with LG, we ultimately find that there are no very compelling circumstances rendering his deportation disproportionate under Article 8 ECHR.

Notice of Decision

The human rights appeal is dismissed

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the respondent in this appeal is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the respondent and to the appellant. Failure to comply with this direction could lead to contempt of court proceedings.

D.Blum — 17 January 2022

Signed — Date

Upper Tribunal Judge Blum