Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/11624/2019**
[UI-2021-000771]

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 24 February 2022	**On the 20 April 2022**

Before

UPPER TRIBUNAL JUDGE BLUM
DEUPTY UPPER TRIBUNAL JUDGE MAILER

Between

TSPTD
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the appellant: Mr Coleman, counsel, instructed by L&L Solicitors
For the respondent: Ms Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of Judge of the First-tier Tribunal Manuell ("the judge") who, in a decision promulgated on 13 July 2021, dismissed the appellant's protection and human rights appeal against the decision of the Secretary of State for the Home Department ("the respondent" or "SSHD") dated 11 November 2019 refusing the appellant's protection and human rights claim.

2. The appellant's protection claim was based on her assertion that she had previously been detained by the Sri Lankan authorities and seriously ill treated and raped because of the activities of her father. The judge rejected the appellant's claim to have been targeted by the authorities as a complete fabrication. The appellant challenges that decision on the basis that the judge should have adjourned the hearing in light of an application for an all-female court, and that the judge failed to apply the Child, Vulnerable Adult and Sensitive Witness Practice Direction of 2008 ("the Vulnerability Practice Direction") and the Joint Presidential Guidance on Children and Vulnerable Witnesses (no 2 of 2010) ("the Presidential Guidance Note") in his assessment of the appellant's credibility. The appellant also challenges the decision on the basis that the judge was biased in respect of a witness, Mr Lingajorthy, who was one of the appellant's legal representatives and who made a statement and gave oral evidence concerning a application made on the appellant's behalf in 2016 for leave to remain outside the immigration rules.

Background

3. The appellant is a Sinhalese national of Sri Lanka, born in 1993. She entered the United Kingdom on 23 April 2014 as a Tier 4 (General) Student having obtained prior entry clearance. She went back to Sri Lanka for 2 weeks in 2015 before returning to the United Kingdom. Her student leave was curtailed in August 2015. In an application dated 23 August 2016 she made an application for leave outside the Immigration Rules. This was refused. Her asylum claim was made on 27 August 2019.

4. We summarise the basis of the appellant's protection claim. Although she claimed to have little insight into her father's business, the appellant was aware that he ran several businesses including clubs, casinos, a car business and a business involving weapons. In 2009 the appellant's father was arrested by the Sri Lankan authorities because they suspected he was assisting the LTTE. He eventually escaped and, in January 2012, the appellant was arrested by the Sri Lankan authorities in an effort to locate her father. During her detention she was beaten and raped. The appellant was released after 4 days on condition that she regularly report to the authorities. As a result of her rape the appellant fell pregnant with an ectopic pregnancy, which required an operation. She was unable to report when recovering from her operation and the authorities again arrested her. This time she was detained for over a year and subjected to verbal, physical and sexual abuse. She was again questioned about the location of her father and the links he had to the LTTE.

5. The appellant's father was eventually discovered by the authorities and the appellant was released through a bribe paid by her mother. An agent was instructed to arrange for the appellant to leave Sri Lanka and to enter the United Kingdom ("UK") on a student visa. On 13 August 2014 the appellant was stabbed in the stomach when she was

walking back to her home in the UK. When she travelled back to Sri Lanka in July 2015 in order to see her mother, she was detained by the Sri Lankan authorities who informed her that it was they who had arranged the stabbing. They did so because her father had again escaped from detention. She was released by the authorities on the basis that she would undertake surveillance of those engaged in activities critical of the Sri Lankan government in the UK.

6. The appellant maintained that the application she made outside the Immigration Rules in 2016, which asserted that her father was well known in Sri Lanka as a politician and a ruthless and sleazy businessman who ran night massage clubs and casinos, and who disapproved of the appellant's relationship with her ex-boyfriend and used all his power to threaten and scare the boyfriend off, should be disregarded. Mr Lingajothy had no part in the making of the application and the case worker who dealt with it had been removed because she did not write down her instructions and would confuse clients' information.

7. The respondent refused her protection claim as she did not believe the appellant gave a credible account of events supporting her claim. The appellant appealed the respondent's decision to the First-tier Tribunal pursuant to s.82 of the Nationality, Immigration and Asylum Act 2002 ('the 2002 Act').

The decision of the First-tier Tribunal

8. At the outset of the appeal hearing the appellant's counsel made an application for an adjournment because the appellant wanted an all-female court. The judge refused the application. His reasoning is contained at [10] and [11] of his decision:

> "10. Ms Anzani for the Appellant applied for an adjournment on the grounds that the Appellant had requested an all-female court. Ms Anzani accepted that no formal order to such effect had been made by the tribunal, although submitted that it had probably been intended at an earlier stage when a female judge had started the appeal, made directions and reserved the case to herself. Counsel's instructions were that the Appellant would feel uncomfortable giving evidence before a male judge.
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> 11. The tribunal noted that the Appellant's evidence was set out in a witness statement as well as the Home Office interview records. Both her medical experts were male and she had seen them a number of times without demur. They would be no cross examination as the Home Office were not represented. The tribunal had no questions for the Appellant. The Sinhalese interpreter booked was male, but, in the circumstances, where Ms Anzai had no supplemental questions for her client, would not have to interpret evidence from the Appellant. The tribunal had ordered that the hearing be "in camera", there was anonymity order, the Observer present had been asked to leave and the hearing was locked. There was thus no practical difficulty and the Appellant would not in fact face any unnecessary discomfort or

> embarrassment. The appeal hearing had been delayed several times and it was not in the Appellant's interests for it to be delayed yet again, not least because her case was privately funded. The tribunal accordingly refuse the adjournment creation."

9. The judge heard oral evidence from Mr Lingajorthy, who adopted his statement concerning the circumstances in which the August 2016 application had been made.

10. At section C of his decision, the judge summarised the basis of the appellant's protection claim and the evidence before him. No criticism has been made of the accuracy of the summary. Nor has any criticism being made of the summary of the submissions made on behalf of the appellant at section D.

11. The judge's findings are contained in section E of his decision. At [31] he stated:

> "the Appellant's account of events is at first sight a strange one, if not a bizarre and extraordinary one. On close examination with liberal and constant application of anxious scrutiny that impression is unfortunately confirmed."

12. The judge identified matters that were not in dispute before him. He noted at [32] the acceptance in the Reasons for Refusal Letter that the appellant was suffering from depression and anxiety for which she received medical treatment in the UK and Sri Lanka. It was accepted that the appellant had an ectopic pregnancy and that she had been stabbed in the UK in August 2014. At [34] the judge referred to three reports by a Consultant Psychiatrist (Dr Saleh Dhumad) who found that the appellant's symptoms were consistent with the traumatic events she described. He diagnosed her with recurrent severe depression, PTSD, and at significant risk of suicide. The Consultant Psychiatrist considered that the appellant could give evidence with appropriate measures as her condition had improved since his first and second reports. Reference was made to an expert scaring report which found that scars on the appellant's body were consistent with her account, although other causes were also possible. At [36] the judge saw no reason not to give weight to the medical evidence as a whole, and at [37] the judge found, *inter alia*, that the appellant suffered an anxiety collapse in London on 18 August 2014 on account of her stabbing, and that she had depression and PTSD.

13. Despite these particular findings, the judge the judge then stated, at [38] that ",,, much of the Appellant's evidence is vague and lacking in specific detail, and has marked inconsistencies." The judge relied on various aspects of the appellant's evidence to find that her credibility had been significantly undermined. This included the diminishing nature of the appellant's knowledge of her father's activities as set out in her various applications, the absence of any news reports given her father's "colourful history", the absence of evidence of other steps

taken by the Sri Lankan authorities against her father, and the unlikelihood of the appellant and her mother being brutally treated when the prospect of obtaining information from them "would have been better promoted by courteous enquiries and a careful search of their home and of external records such as telephone calls."

14. The judge did not find it plausible that the appellant had been raped and noted that she had not sought medical assistance in respect of the rape until the discovery that she was pregnant. The judge found that it made "little sense" that the appellant would be detained for failing to report after her operation and that she would have been detained in a camp for over a year as it would have been obvious that she had no relevant information concerning her father's whereabouts. The judge found the appellant's claim that her mother was able to engage an agent "dubious" and it was more likely that the Sri Lankan authorities would have seized her passport and ID documents. The judge noted the delay in the appellant's asylum claim, and found it highly implausible that the Sri Lankan authorities would have arranged for her to be stabbed in the UK and that they would ask her to spy on UK based groups opposed to the Sri Lankan authorities. nor did the judge consider it credible that the appellant would return to Sri Lanka in 2015 if she held such a strong fear of the authorities. At [59] to [60] the judge rejected the evidence from the appellant and from Mr Lingajothy relating to the circumstances in which the appellant's 2016 application was made.

15. Having found the appellant to be an incredible witness, her protection and human rights appeals were dismissed.

The challenge to the judge's decision

16. The grounds contend that the judge erred in law in failing to adjourn the hearing to ensure there was an all-female court, that he failed to refer to or apply the Vulnerability Practice Direction or the Presidential Guidance Note when assessing the appellant's evidence and her overall credibility, and that the decision was thereby marred by procedural impropriety. The grounds also contend that the judge made speculative findings unsupported by the evidence.

17. In his submissions Mr Coleman placed significant reliance on *AM (Afghanistan) v Secretary of State for the Home Department* [2017] EWCA Civ 1123 ("*AM (Afghanistan)*" and contended that it was incumbent on the judge to have considered whether any of his adverse credibility findings may have been explained by reason of the appellant's mental health issues. Ms Everett resisted the challenge and submitted that a person's vulnerabilities may be diverse and that the judge's plausibility findings were unaffected by any vulnerability on the part of the appellant.

18. We reserved our decision.

Discussion

19. we do not consider there to be any merit in the ground contending that the judge erred in law by refusing to adjourn the hearing so that there could be an all-female court. Contrary to the suggestion in the grounds, there was no request for an all-female court prior to the hearing on 6 May 2021, and there had been no direction issued by the First-tier Tribunal that there be an all-female court. Although Judge of the First-tier Tribunal Cooper, a female judge who dealt with the case on several previous occasions, directed on 22 January 2021 that there be a female presenting officer, in her adjournment notice decision dated 6 May 2021 she excluded herself from participating in any further hearing and she made no direction in respect of an all-female court. Judge Manuell took into account the material circumstances of the appeal hearing and noted that there was no Presenting Officer, that the appellant's barrister indicated that she was not intending to ask any questions, and that the judge had no questions for the appellant. Given that the hearing was 'in camera' and anonymised, the judge was rationally entitled to conclude that the appellant would not be inhibited from participating in the hearing and that she would not face ant unnecessary discomfort or embarrassment.

20. The 2nd ground of appeal concerns the judge's failure to refer to the Presidential Guidance Note and/or the Vulnerability Practice Direction. In *AM (Afghanistan)* the Court of Appeal gave guidance on the general approach to be adopted in law and practice by both the First-tier Tribunal and Upper Tribunal (Immigration and Asylum Chambers) "… to the fair determination of claims for asylum from children, young people and other incapacitated or vulnerable persons whose ability to effectively participate in proceedings may be limited." At [30] of *AM (Afghanistan)*, the Senior President of Tribunals indicated that the directions and guidance contained in the Presidential Guidance Note and the Vulnerability Practice Direction were to be followed, and that failure to follow them "will most likely be a material."

21. The Presidential Guidance Note indicates that the consequences of a person's vulnerability differ according to the degree to which an individual is affected, and that it is a matter for the judge to determine the extent of an identified vulnerability, the effect on the quality of the evidence, and the weight to be placed in such a disability in assessing the evidence as a whole. In the section of the Presidential Guidance Note dealing with the assessment of evidence, judges are reminded to take account of potentially corroborated evidence, and to be aware that some forms of disability could result in impaired memory, and that the order and manner in which evidence is given may be affected by mental, psychological or emotional trauma or disability, and that comprehension of questioning may have been impaired. In respect of a judge's determination, the Presidential Guidance Note states:

> "13.The weight to be placed upon factors of vulnerability may differ depending on the matter under appeal, the burden and standard of proof and whether the individual is a witness or an appellant.
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> 14.Consider the evidence, allowing for possible different degrees of understanding by witnesses and appellant compared to those are not vulnerable, in the context of evidence from others associated with the appellant and the background evidence before you. Where there were clear discrepancies in the oral evidence, consider the extent to which the age, vulnerability or sensitivity of the witness was an element of that discrepancy or lack of clarity.
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> 15.The decision should record whether the Tribunal has concluded the appellant (or a witness) is a child, vulnerable or sensitive, the effect the Tribunal considered the identified vulnerability had in assessing the evidence before it and thus whether the Tribunal was satisfied whether the appellant had established his or her case to the relevant standard of proof. In asylum appeals, weight should be given to objective indications of risk rather than necessarily to a state of mind.

22. In *SB (vulnerable adult: credibility) Ghana* [2019] UKUT 00398 (IAC) an Upper Tribunal panel consisting of the President and the Vice-President held that the fact that a judicial fact-finder decided to treat an appellant or witness as a vulnerable adult did not mean that any adverse credibility finding in respect of that person was thereby to be regarded as inherently problematic and thus open to challenge on appeal, and that, by applying the Presidential Guidance Note the judicial fact-finder would ensure the best practicable conditions for the person concerned to give their evidence, and that their vulnerability would also be taken into account when assessing the credibility of that evidence.

23. We note that, prior to the hearing on 8 July 2021, particular arrangements had been made in respect of the giving of evidence by the appellant. In an adjournment notice and directions dated 22 January 2021 Judge Cooper directed that the appellant obtain an updated report from the psychiatrist which considered her ability to give evidence by video link, which was to include any adjustments that could be made by the tribunal to assist the appellant and to safeguard her well-being. It was also noted that a female presenting officer was required. In a further Adjournment Notice And Directions issued by Judge Cooper following an aborted attempt at hearing the appellant's substantive appeal on 6 May 2021, she noted, at [3], that the appellant was a sensitive witness and regard was made to both the Vulnerability Practice Direction and the Presidential Guidance Note. In detailed directions Judge Cooper recorded agreement between the parties that the appellant would not be questioned regarding her experiences in detention and that the questioning would be limited to certain topics only (including the appellant's father and his business/political activities, discrepancies between her visa application in 2014 and her application in 2016 and her claim for international protection 2019,

discrepancies in her account of the incident in which she was stabbed in 2014, and her account of being requested to spy for the Sri Lankan authorities in respect of two individuals and demonstrators).

24. On the basis of these directions, it is apparent that adequate arrangements had been in preparation of the hearing before Judge Manuell. It is therefore surprising that the judge made no reference at all to the Vulnerability Practice Direction or the Presidential Guidance Note. One must of course consider the full context in which an appeal hearing comes before a judge, including previous Case Management Hearings and previous directions that have been issued. On one view the judge could be taken to have been aware of the vulnerability guidance as this was specifically mentioned in the directions. But, as is clear from the Presidential Guidance Note itself and *SB(Ghana)*, the judge's decision should record his conclusion as to whether the appellant is a vulnerable individual and the effect of the identified vulnerability in the assessment of the evidence, including the credibility of that evidence. Having considered the decision 'in the round', we are unable to conclude that the judge was aware of the vulnerability guidance or, if he was aware, that he applied that guidance to the facts of this particular case.

25. There was no Presenting Officer at the First-tier Tribunal hearing, and the appellant did not give oral evidence. It was open to her barrister to have asked some questions of the appellant in respect of the specific topics identified in Judge Cooper's earlier directions. This was not done, and Mr Coleman was unable to offer any explanation for the failure to do so. The judge consequently had to assess the appellant's case on the basis of the written evidence before him, which included a significant number of credibility issues, a point recognised by Judge Cooper in her directions issued in May 2021 where she referred to the "considerable discrepancies" in the appellant's account.

26. Mr Coleman did not draw our attention to any specific adverse findings by the judge that could have been explained by reference to the appellant's mental state and which the judge may have considered in a different light had he expressly applied the relevant vulnerability guidance. Mr Coleman's general submission was that the judge should have asked himself if the implausibilities in the appellant's evidence could have been attributed to her vulnerabilities. We have however considered the evidence before the judge in some detail.

27. The 1st report by Dr Dhumad dated 17 January 2020 indicated, under the heading 'Mental State Examination', (at 15.5) that the appellant had "very poor concentration and difficulties in recalling information, and events." In his opinion, at 16.5, Dr Dhumad considered the appellant was "unfit to attend court hearings or give evidence at present. She is severely depressed, anxious, and her concentration is poor; this is likely to be worse during cross-examination. She would be overwhelmed with fear and worries, in my opinion court attendance would be detrimental to her mental health." At 16.6 the psychiatrist

wrote, “in relation to her capacity to instruct and give a statement to her legal advisers, I recommend short meeting [sic] for 20 minutes each, and to be mindful of her emotional state, to stop when she is distressed and to avoid discussing the sexual abuse data.”

28. In his 2nd report dated 21 January 2021 the Consultant Psychiatrist noted, at 4.8, that the appellant was “cognitively impaired due to poor concentration, and depression. She was orientated in time place and person. She has memory difficulties.” The psychiatrist considered that the appellant remained unfit to attend court hearings or give evidence.

29. In a further report dated 28 April 2021 it was noted that the appellant reported some improvement in her mental health. Although she remained low in mood, and felt anxious and worried, her depression was now diagnosed as being ‘moderate’, and she continued to experience PTSD. In the psychiatrist’s opinion the appellant was fit to attend court and give oral evidence through video link, albeit with some adjustments. These included her attending the hearing with the support of her solicitor next to her, that should be asked short questions, that should be given or time to answer questions, and that she be allowed breaks.

30. We are satisfied, based on the psychiatric report, that the appellant was a vulnerable person and that it was incumbent on the judge to consider whether any of his adverse credibility findings could have been attributed to her particular mental health issues. We find that there are adverse credibility findings that, had the judge considered and applied the vulnerability guidance, and in particular the Presidential Guidance Note and the principles established in *AM (Afghanistan)* and *SB(Ghana)*, he may have reached a different conclusion.

31. At [38] the judge noted, with reference to the Reasons for Refusal Letter, that “much of the Appellant’s evidence is vague and lacking in specific detail, and has marked inconsistencies.” No consideration has been given by the judge as to whether the vagueness of lack of detail, or inconsistencies, could have been attributed to the appellant’s “very poor concentration and difficulties in recalling information, and events”, as outlined in the report by Dr Dhumad.

32. At [45] the judge found the appellant’s claim that she felt “too ashamed and degraded to seek immediate medical help” in respect of her alleged rape in 2012 which led to her pregnancy, to be an “insufficient explanation” on the basis that her mother would have insisted that the appellant be checked after the rape. We find that this element of the appellant’s evidence could potentially have been attributed to her mental state and her vulnerability, but there is no indication that the judge took this into account when assessing the appellant’s explanation.

33. At [51] the judge found it surprising that the appellant did not claim asylum until some years after she first arrived in the UK and after

making other applications, and he rejected the appellant's explanation that she wanted to put her past behind her and make a new life. We consider that the appellant's explanation, in light of the diagnosis that she was suffering PTSD and depression (albeit that the diagnosis could not indicate that she suffered from this when she entered the United Kingdom and for the subsequent period of time before she made her protection claim) we cannot discount the possibility that, had the judge addressed his mind to the appellant's vulnerability, particularly the elements of the medical reports indicating that she avoided of activities and situations reminiscent of her trauma, he may have attributed the delay in her asylum claim to her vulnerability.

34. At [59] and [60] the judge did not find it likely that a former employee of the appellant's solicitors' firm would have concocted a largely falsified story for her, at least without her active participation. The statement from the appellant dated 11 January 2021 did not however suggest that a solicitor concocted a false story, but that she "… had to refrain from providing the truths behind my history in order to protect the greater harm from happening to myself and my mother", and because she was embarrassed and ashamed to "reveal the brutal events which I encountered in Sri Lanka." This is a further element of the appellant's evidence that the judge may have considered in a different light had he assessed it mindful of the finding of PTSD and depression.

35. There are additionally elements of the judge's decision that we consider to be unduly speculative or unsupported by any available evidence. At [41] the judge speculates that it was usual Sri Lankan police practice to alert the public to fugitives and that if he did have political connections there would almost certainly have been media coverage. There does not appear to us to be any basis in the evidence before the judge to support his observation concerning the likelihood of media coverage, or in respect of Sri Lankan police procedure. At [42] the judge considered it strange that no mention was made by the appellant of other steps taken by the authorities against her father such as the sequestration of his assets and other financial consequences for her or her mother. Once again, the judge was engaging in unwarranted speculation as to how the Sri Lankan authorities were likely to react.

36. At [43] the judge considered there to have been little sense in the way the police treated the appellant and her mother because they were Sinhalese and "there would be no reason for them to be treated with the abuse of racial hatred reportedly often extended by the authorities to Tamils." The appellant's protection claim was based on her father's alleged association with the LTTE, and the judge does not refer to any evidence that Sinhalese who were supportive of the LTTE would be treated differently. The judge's next assertion, that "the prospects of obtaining useful information from the Appellant and her mother would have been better promoted by courteous enquiries and a careful search of their home and of external records such as telephone calls" is another aspect of the judge's decision that is purely speculative.

37. At [44] the judge found that the appellant's claim to have been raped whilst in police custody made little sense because, although such conduct could occur in any police force, "… it was not shown by any country background evidence to be frequent for middle-class Sinhalese women held in police custody in Sri Lanka." Whilst the judge may have been correct in his observation that there was little evidence about the ill treatment of Sinhalese women in police custody, we have concerns that one of the reasons he gave for rejecting this element of the appellant's claim was the expectation that there would have been such evidence relating to a very narrow category of people (middle-class Sinhalese women), and that such treatment should be "frequent".

38. We fully acknowledge and accept that the judge was entitled to find several elements of the appellant's claim to be lacking in credibility. For example, the judge was entitled to find it incredible that the Sri Lankan authorities would have organised the attack on the appellant in 2014. The judge was entitled to his stated concerns as to why the appellant would have been detained for over a year until her alleged release in 2013. The judge was entitled to find it incredible that the appellant would return to Sri Lanka in 2015 in light of the treatment to which she claimed to have been previously subjected. The judge was also entitled to find it incredible that the Sri Lankan authorities would ask the appellant to act as an informer or to spy on particular individuals or Tamil separatist groups in the UK given that she made no claim to speak Tamil or to have any knowledge of or interest in Tamil separatist movements. The judge's finding that the appellant's knowledge of her father's activities had diminished throughout her various applications is not something that, on its face, is likely to have been affected by her mental health condition. It is difficult to see how the appellant's mental health condition would have undermined any of these findings.

39. However, despite the cogency of some of the adverse credibility findings that the judge was entitled to reach, we have an abiding concern that, but for his failure to apply the principles established in *AM(Afghanistan)* and the Presidential Guidance Note, he may nevertheless have reached a different conclusion as to the appellant's credibility. in order words, we cannot say that his conclusions would inevitably have been the same even if he did apply the vulnerability guidance and even if he did not engage in undue speculation. We consequently find that his error of law was material.

40. We see no merit however in the assertion that the judge was biased against Mr Lingajothy. In his most recent statement Mr Lingajothy indicates that he held a qualifying law degree and two Masters degrees in law, that he is regulated by Cilex, that he is a member of the international bar and that his employment as a level III immigration case worker is authorised by the Solicitors Regulatory Authority. There is nothing in his statement to indicate that he is a solicitor, and the judge was entitled to state as much. Nor is there anything in the point concerning the judge's difficulty in understanding how Mr Lingajorthy

could employ a trainee solicitor if he himself was not a solicitor. This was not operative in the judge's assessment of the weight he attached to Mr Lingajothy's evidence. If the judge's understanding was wrong, it falls far short of supporting the establishment of bias.

41. The judge noted that Mr Lingajothy made no claim that he signed the 2016 letter and application without reading them [59], and that Mr Lingajothy signed a declaration that the application was, to the best of his knowledge and belief, true and correct (supra). The judge noted that Mr Lingajothy produced no evidence that he sought to contact the Home Office once he discovered that the basis of the application was inaccurate. It was rationally open to the judge to his expressed concerns with Mr Lingajorthy's evidence. On this basis the judge was unarguably entitled to reject Mr Lingajothy's evidence to the effect that the caseworker who dealt with the August 2016 application had not followed the appellant's instructions. There is nothing in the judge's decision that even comes close to supporting an allegation of bias. In any event, the judge made it quite clear that he would have reached the same result even if he had excluded the covering letter from Linga & Co [61].

42. We are however persuaded that the decision must be set aside in its entirely due to the failure by the judge to consider whether certain elements that constituted the judge's adverse credibility findings could have been attributed to her mental health diagnosis.

Notice of Decision

The making of the First-tier Tribunal's decision involved the making of an error on a point of law requiring it to be set aside.

The appeal is remitted to the First-tier Tribunal to be decided de novo by a judge other than Judge of the First-tier Tribunal Manuell.

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

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

D.Blum 9 March 2022

Signed Date:

Upper Tribunal Judge Blum