

# IN THE UPPER TRIBUNAL IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-001960

First-tier Tribunal No: HU/00879/2020

#### THE IMMIGRATION ACTS

#### **Decision & Reasons Issued:**

On 14<sup>th</sup> of May 2024

#### Before

#### **UPPER TRIBUNAL JUDGE HANSON**

#### Between

### Muhammed Zulfiqar (NO ANONYMITY ORDER MADE)

and

<u>Appellant</u>

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

Respondent

#### Representation:

For the Appellant: Ms A Chaudhry instructed by Reiss Solicitors.

For the Respondent: Ms Z Young, a Senior Home Office Presenting Officer.

### Heard at Phoenix House (Bradford) on 19 April 2024

#### **DECISION AND REASONS**

- 1. In a decision promulgated following a hearing at Bradford on 8 September 2023, the Upper Tribunal found a Judge of the First-tier Tribunal had erred in law in allowing the Appellant's appeal on human rights grounds, relied upon as an exception to the order for his deportation from the United Kingdom.
- 2. The matter comes back before me today to enable the Upper Tribunal to substitute a decision to either allow or dismiss the appeal.
- 3. The First-tier Tribunal's findings on family composition, grant of leave to other family members, nationality of the eldest child, and the Appellant's criminality, are all preserved findings.
- 4. The Appellant is married and lives with his family at a property in Bradford. He is the father of five children, Ibrahim Zulfiqar born on the 4 September 2008 (aged 15), Aishah Nazir born on the 21 October 2011 (aged 12), Saira Nazir born on the 21 October 2011 (aged 12), Mohammed Ismail Zulfiqar born on the 18 September 2013 (aged 10), and Sehar Zulfiqar born on the 18 September 2013 (aged 10).

5. Since the Error of Law hearing, when only one of the children was a British citizen, the Appellant in his latest witness statement states that Ibrahim, Aishah and Saira are now all British nationals. The Appellant's wife and the children who have not been granted British citizenship are nationals of Pakistan. His wife who, is the children's mother and who was born in Pakistan on 5 December 1976, has been granted leave to remain on the 10-year route to settlement.

- 6. The procedural and immigration history set out in the decision to refuse the Appellants human rights claim, dated 8 January 2020, reads:
  - a. On 15 October 2021 you and your wife were issued with visitor visas valid until April 2002. You and your wife claim to have entered the UK lawfully in April 2002, using your own Pakistani passports via Heathrow Airport, however there is no record of this
  - b. On 24 April 2013 you made an application for Leave to Remain (LTR) outside of the immigration rules on compassionate grounds, listing your wife and children as dependents. This application was later rejected on 18 July 2013.
  - c. On 8 May 2013 you made an application for LTR outside the immigration rules on compassionate grounds, listing your wife and children as dependants. This application was later rejected on 13 June 2013.
  - d. On 27 June 2013 you made an application for LTR outside the immigration rules on compassionate grounds, again listing your wife and children as dependants. This application was later rejected on 18 July 2023.
  - e. On 1 August 2013 you made an application for LTR under the Family and Private Life, which included your wife and children as dependants. This application was later refused on 6 September 2013 due to you being suspected of being in the UK illegally.
  - f. On 28 August 2013 you were encountered in Bradford and arrested on suspicion of providing a false identity document and on suspicion of being an illegal entrant.
  - g. On 6 November 2013 you were interviewed with regard to your immigration history and it was established that you and your wife came to the UK illegally with the help of an agent on false travel documents.
  - h. On 6 November 2013 you, along with your wife and children were served with a notice of a person liable to removal and considered to be an illegal immigrant.
  - i. On 19 March 2014 you were sentenced at Leeds Crown Court for one count of 'possess/control identity document with intent' and one count of 'produced or gave a false document or information or obtain support' to 21 months and 15 months imprisonment respectively, to run concurrently.
  - j. On 1 August 2014 you were served with a notice of liability to deportation and on 13 August 2014 representations were received in response which included an implied claim for asylum, with your wife and children listed as dependants.
  - k. On 10 September 2014 you claimed asylum with your wife and children listed as dependants. This claim was later refused on 19 February 2015.
  - I. On 14 November 2017 Mrs Zulfiqar and your children were served with decisions to make them subjects of deportation orders (due to your conviction). On 3 December 2014 representations were received against this decision and on 8 May 2015 a decision to refuse their Human Rights claims was made and certified under section 94(b) of the Nationality, Immigration and Asylum Act 2002.
  - m. On 8 June 2015 a decision to refuse your asylum claim was made and certified under section 94 of the Nationality, Immigration and Asylum Act 2002. This decision was challenged by way of a Judicial Review (JR), which was later refused on 29 September 2015.
  - n. On 27 November 2015, Mrs Zulfiqar applied for LTR for herself and your eldest son (lbrahim).
  - o. On 14 December 2017 the decision to deport and deportation orders made against Mrs Zulfiqar and your children were withdrawn, in light of the Supreme Court judgement of Kiarie & Byndloss [2017] UKSC 42, in order for their representations to be reconsidered. In response to this decision, on 10 January 2018 further representations were received for Mrs Zulfiqar and your children.

- p. On 18 May 2018 Mrs Zulfiqar and your children were served with a one-stop notice asking them to submit any further information to be considered.
- q. On 21 December 2018 your eldest child (Ibrahim) was granted British Citizenship. In light of this a letter was sent on 11 April 2019 to Mrs Zulfiqar and your children informing them that the Home Office was no longer pursuing deportation action against them.
- r. On 11 April 2019 a letter was also sent to yourself, asking you to submit any further information to be considered against your deportation.
- s. On 13 May 2019 you submitted an application for LTR, based on your private life in the UK, listing your wife and children as dependants. This application remains outstanding and is considered in the decision below.
- t. On 30 May 2019 your legal representatives forwarded a copy of your LTR application to the Home Office.
- u. On 12 September 2019 your wife and youngest four children were granted LTR until 11 March 2022.
- v. On 6 January 2020 a decision was made to refuse the human rights claim and the LTR application, forwarded to the Home Office on 30 May 2019, was also rejected.

### The law

- 7. The Appellant was sentenced to a period of imprisonment for a maximum period of 21 months. It is not disputed he is a foreign criminal as defined in section 117D of the Nationality, Immigration Asylum Act 2002.
- 8. The order for his deportation, on the basis the Secretary of State deems his deportation to be conducive to the public good, was made pursuant to section 32(4) UK Borders Act 2007 making him liable to deportation in accordance with section 3(5) Immigration Act 1971.
- 9. Section 32(5) of the UK Borders Act 2007 provides that the Secretary of State will make a deportation order against a person unless he falls within one of the exceptions set out in section 33 of the Act.
- 10. The only relevant section 33 exception on the basis of the preserved facts in this case is:
  - Exception 1 the appellant's removal in pursuance of the deportation would breach
    - o his Convention rights under the European Convention on Human Rights.
- 11.Any court or tribunal who is required to determine whether a decision made under the Immigration Acts would breach a person's right to respect for private and family life under Article 8, and, as a result will be unlawful under section 6 Human Rights Act 1998, must consider section 117 Nationality, Immigration and Asylum Act 2002.
- 12.Section 117A(2) specifically provides that 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 all cases consider the deportation of foreign criminals, to the considerations listed in section 117 C. These provisions are to be found in Part 5A of the 2002 Act.
- 13. Section 117B reads:

Article 8: public interest considerations applicable in all cases

- (1) The maintenance of effective immigration controls is in the public interest.
- (2) It is in the public interest, and in particular in the interests of the economic wellbeing 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 wellbeing 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.
- (6) In the case of a person who is not liable to deportation, the public interest does not require the person's removal where—
- (a) the person has a genuine and subsisting parental relationship with a qualifying child. and
  - (b) it would not be reasonable to expect the child to leave the United Kingdom.

#### 14. Section 117 C reads:

Article 8: additional considerations in cases involving foreign criminals

- (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.
- (7) The considerations in subsections (1) to (6) are to be taken into account where a court or tribunal is considering a decision to deport a foreign criminal only to the extent that the reason for the decision was the offence or offences for which the criminal has been convicted.
- 15.The only legal framework needed is that set out in Part 5A see <u>Binaku (s. 11 TCEA; s. 117C NIAA; para 399D) [2021] UKUT 34 (IAC) (27 January 2021)</u>

#### The evidence

16. The Appellant has provided three witness statements, dated 24 June 2020, 6 October 2023, and 15 April 2024, and attended the hearing and gave oral evidence.

17. His wife has provided witness statements date 24 June 2020 and 6 October 2023, and gave oral evidence.

- 18.In the witness statement of 6 October 2023, the Appellant claims he served 10 ½ months in prison after which he was released. He states he is not a career criminal and is a family man who wishes to continue to reside with his family, and that since his release he has had no problems with the law.
- 19.At [8] of the statement the Appellant's states he regrets his actions that he has apologised for, claims he deeply regrets what happened, claiming he has lived with the pain he put his young family through when he was in prison as he left his wife and young children to fend for themselves.
- 20.At [9] the Appellant claims he is still being punished for his actions. That is a reference to the deportation order but is a claim without merit. He is not being punished as a result of his criminal activities for that was dealt with by the Crown Court. It is the lawful consequence of his conviction that has engaged the obligation upon the Secretary of State to deport him from United Kingdom.
- 21. The Appellant claims he has family life in the UK, which is not disputed. He states he lives with his wife and children all of whom were born in the UK, which is not disputed.
- 22.At [13] the Appellant claims if he is returned to Pakistan, it would be unfair as it will leave the children without a father which is not in their best interests. He claims returning him to Pakistan is punishing his family as he was separated from them when he went to prison and that his wife and children struggled to cope without him, and that returning him to Pakistan will punish his wife and children.
- 23.At [14] the Appellant states that although the Secretary of State claims it would not be unduly harsh for his children to remain in the United Kingdom with their mother if he is deported, it appears the Secretary of State is happy for the family to be separated and for the children to grow up without their father, which the Appellant questions is in their best interests.
- 24.In relation to the key question of the impact upon his family if he is deported the Appellant wrote:
  - 15. The impact on my family if I was deported is that my children no longer have a father figure in their life, my wife has no husband and no help with our children who are still very young. Bringing up five children who are very young alone is very difficult. My wife is not a single parent and should not have to bring up our children alone.
  - 16. It is unfair as my family are also being punished for my crime. I still feel very guilty and ashamed that my family have suffered.
  - 17. My wife and myself are in a genuine and subsisting relationship, we reside together and have been bringing up our five children together. We emotionally support each other and have an established family life in the UK.
  - 18. My wife found it difficult to cope when I was previously away for 10 1/2 months. Our children are still very young. My wife was also not in the best of medical health and needs my support. Medical evidence in relation to my wife from the GP will be provided.
  - 19. We are aware that my wife will have access to the NHS but if my wife was unwell I should be here to help her take care of the children and also look after her. My wife should not have to cope as a single parent. She is not a single parent she has a husband.

- 25. The Appellant refers to his time in the UK since 2002 which enabled him to establish a private life based upon long residence. He asks for his human rights to be considered.
- 26. The Appellant claims if deported he could not return to visit his family and questions how his wife and children could visit him in Pakistan as she will be a single parent not able to afford to travel to Pakistan with the children to visit him [21].
- 27. The Appellant claims they have no family in Pakistan as both his parents and his brother have passed away, and that his father-in-law and mother-in-law had also passed away, with no real family to return to in Pakistan, and claims that he and his family no longer have any real ties to Pakistan [25].
- 28.In his witness statement dated 6 October 2023 the Appellant claims the family are settled in the UK and that the children have a settled routine. The Appellant claims if removed the impact on the children would be huge as they lived together, he is involved with them daily, drops and collects the children from school, attends all his children's appointments whatever the appointment may, and that the family rely upon him for emotional and financial support.
- 29. The Appellant states he is the "man of the home" who makes most of the decisions regarding the family including how much money they spend on groceries/food, how much they need for bills, as well as undertaking DIY where necessary.
- 30. The Appellant claims his wife speaks no English, that the children are under 16 and very shy, and that he communicates on behalf of the family, and also makes decisions on which schools the children will attend.
- 31. The Appellant claims his wife is not in the best of health so he helps with household chores such as cooking, cleaning, washing and putting the children to bed and getting them ready for school in the morning. He claims to be a full-time dad who plays a huge part in his children's lives, that his children need him, and that leaving them will not be an option.
- 32. The Appellant claims his wife suffers from the following issues:
  - heart failure
  - operation on the left hand
  - long-standing knee pain (osteoarthritis)
  - unable to walk long distances
  - awaiting ear operation
- 33. The Appellant states his wife takes a lot of medication and that she will struggle without his help.
- 34. The Appellant states has been in the UK for over 20 years, has no ties to Pakistan, that his immediate family members in Pakistan have passed away, and that the only family he has are his wife and children.
- 35. The Appellant claims his deportation will be very harsh as he has children under the age of 16 who need his support and guidance, his wife has medical problems and struggles with daily duties, and now needs him more than ever.
- 36.In his witness statement dated 15 April 2024 the Appellant confirms that three of the children, Ibrahim, Aishah and Saira are now British Citizens and that his wife and the other two children, Mohammed and Sehar, have leave to remain on the 10-year route to settlement. He said both Ishmail and Sehar have made applications to become naturalised as British citizens and that their applications are pending.
- 37. The Appellant claims the family are settled in the UK and enjoy family life and that if he was to be removed the impact on the children "will be huge". The Appellant claims he is involved with the children on a daily basis as she drops

off and collect some from school, attends all the children's appointments whatever they may be for, and that the family rely on him for emotional and financial support.

- 38. The Appellant claims that the children would miss him if he were returned to Pakistan as he is their father and has always been there for them, and they rely on him because they've always lived together, and that he gives them advice when asked. The Appellant claims he is a full-time father and plays a huge part in his children's lives and that his children, all of whom are under 16, need him and leaving them is not an option.
- 39. The Appellant refers at [10] to his wife not being in the best health, claiming she needs his support. He refers to an up-to-date letter from the Leylands Medical Centre which lists his wife's medical problems and the medication she is currently taking.
- 40. The Appellant claims on 14 March 2024 his wife became ill while they were visiting the solicitor's office, that an ambulance was called, and his wife taken to the Bradford Royal Infirmary where she had x-rays and an ECG scan before being allowed to return home that evening.
- 41.On 10 March 2024 the Appellant claimed he and his wife had travelled to London but that on arrival his wife became ill and was taken to a local hospital where she was kept for three days. The Appellant claims he is now afraid to leave his wife alone.
- 42. The Appellant questions if he is returned to Pakistan and his wife is hospitalised who would look after the children, claiming they have no family in the UK.
- 43. The Appellant repeats his claim to have no ties to Pakistan as immediate family members have now passed away and claims his deportation will be very harsh on the family.
- 44.In her witness statement dated 6 October 2023 the appellant's wife made similar statements, also claiming that both she and the children need the Appellant to remain.
- 45.I have seen within the bundle a letter from the Leylands Medical Centre dated 25 September 2023, in relation to the Appellant's wife and her medical needs, in the following terms:

The patient has requested I write to you to confirm about her medical conditions. She has heart failure and previously under cardiology for this. And she has had operations in the past on the left hand following a metacarpal fracture. She is awaiting an Ear operation which was recently cancelled due to being too high risk for day case surgery. She also has long-standing knee pain having been confirmed as having osteoarthritis in the past.

Current medication is Spironolactone 25mg OD, Ramipril 10mg OD. Isorbide mononitrate 10mg BD, GTN spray, Bisoprolol 10 mg OD, Atorvastatin 80 mg OD and Arpin 75mg.

The patient reports due to the above she needs the help of her husband with daily tasks due to these conditions which include helping taking the children to/from school as feels she cannot walk long distances and most of the housework.

Yours sincerely,

Dr D Hooper

46.In the most recent bundle is a copy of the admission, treatment, and discharge summary sent to the Appellant's wife's GP from the Imperial College Healthcare NHS trust at Hammersmith Hospital in London.

- 47. The discharge summary confirms the Appellant's wife was admitted on 10 March 2024 at 2: 35 hours. A summary directive diagnosis states: "no ranking", problems "none", and procedures, "none".
- 48. The Clinical Summary reads:

Dear Doctor.

Mrs Tahira with a background of T2DM, HTN, admitted to Hammersmith Hospital on 10/03/2024 with chest pain, minimal rise in Troponin and ECG changes. Managed as ACS.

#### Diagnosis:

ECG on admission: ST depression in II, III, V4-V5, STE aVR + V1, TWI in II, III, aVF, V6. ECG from Bradford on July 2023: showed same changes as above.

V-scan on admission: NO RWMA Mild impairment of LV, mildly dilated LV, No significant valvular disease, LA dilated, No pericardial effusion, RV normal

CT aorta: NO acute aortic syndrome

Coronary angiogram:

LMS: Unobstructed LAD: Unobstructed LCx: Unobstructed RCA: Unobstructed

Reviewed with Dr Ruparella. No obstructive coronary artery disease

#### Cardiac MRI: Conclusion:

- 1. Mild LV systolic impairment. LVEF 53%. No LVH.
- 2. Normal indexed RV volumes. Good RV systolic function. RVEF 54%.
- 3. No myocardial oedema.
- 4. No myocardial infarction.
- 5. There are two very small focal sub- epicardial patches of fibrosis in one view of the lateral wall. It is unclear as to whether this is a significant finding. It may represent old myocarditis however it is fairly non-specific.

There are no features of acute cardiac event with no oedema and no fibrosis in keeping with myocardial infarction.

Risk factors: T2DM, HTM (uncontrolled), Fatty changes of liver, obesity, treated and uncontrolled hypercholesterolaemia.

On discharge: patient feeling well in herself.

Plan:

DAPT one year

To be followed up at GP clinic

49. The up-to-date letter referred to by the Appellant in his latest witness statement is dated 5 April 2024. That states Mrs Zulfiqar's coded diagnosis includes:

Fatty liver Gastro-Oesophageal reflux disease

Hypertension
Heart Failure
Cardiomyopathy
Mitral regurgitation
Tympanic Membrane perforation x 2
Chronic suppurative otitis media - states that her hearing is impaired in one ear.
Varicose Veins.

- 50. The medical evidence supports some of the claims made by the Appellant, including in his witness statement of 6 October 2023 that his wife suffers from heart failure, operation on her left hand, long-standing knee pain, that she may have difficulty walking long distances, and that she was awaiting an ear operation. Although it is important to take account of the medical evidence, it is equally important to note what is being stated by the medical experts. The definition of 'heart failure' is a term referring to a heart being unable to pump blood around the body properly and does not mean that an individual's heart has stopped working, but rather that it needs support to help it work better. The medication prescribed to the Appellant's wife is clearly focused upon blood pressure, water retention, and to prevent narrowing of the arteries.
- 51.I returned to specific submission made by Miss Young on behalf of the Secretary of State below that the difficulties encountered as a result of the medical aspects have been exaggerated.

#### Discussion and analysis

- 52.Mr Zulfiqar is a citizen of Pakistan born on 23 March 1958 who entered the UK with his wife from Pakistan in April 2002. It is not disputed he has failed to resolve his immigration status [15], that he was convicted at Leeds Crown Court in February 2014 for possession of a British passport which was a false document and sentenced to 21 months imprisonment, or that obtaining a false document was a serious matter resulting in the custodial sentence
- 53.He therefore falls within the medium range of offenders who have been convicted and sentenced to imprisonment of more than 12 months but less than four years.
- 54.It is not proposed that his wife or children be removed from the United Kingdom and this is therefore a case in which it needs to be considered whether it will be unduly harsh for his wife and children to remain in the UK if he is deported.
- 55.I remind myself that the question of whether the impact upon the children is unduly harsh has to be evaluated only by reference to the children themselves. To weigh the impact of deportation on the child against the criminality of the parent would be to offend against the 7th principle in Zoumbas v Secretary of State for the Home Department [2013] UKSC 74 (27 November 2013) (that a child cannot be blamed for matters for which he is not responsible): KO (Nigeria) & Ors v Secretary of State for the Home Department (Respondent) [2018] UKSC 53 (24 October 2018).
- 56.In relation to the applicable test, in HA (Iraq) v Secretary of State for the Home Department [2022] UKSC 22 (20 July 2022) and KO (Nigeria) the Supreme Court endorse the MK (section 55 Tribunal options) [2015] UKUT 223 (IAC) (15 April 2015) formulation [at 46] that unduly harsh "does not equate with uncomfortable, inconvenient, undesirable or merely difficult. Rather, it poses a considerably more elevated threshold. 'Harsh' in this context, denotes something severe, or bleak. It is the antithesis of pleasant or comfortable. Furthermore, the addition of the adverb "unduly" raises an already elevated standard still higher.'". The UKSC upheld the judgment of the Court of Appeal in

# HA (Iraq) v Secretary of State for the Home Department (Rev 1) [2020] EWCA Civ 1176 **t**hat:

- Undue harshness should not be evaluated with reference to the distress that 'any child' might face when their parent is deported. To apply such a notional comparator would be contrary to s55
- It is no longer correct to say (as in <u>SSHD v PG (Jamaica) [2019] EWCA Civ 1213</u>) that the 'commonplace' distress caused by separation from a parent or partner is insufficient to meet the test: it could be. The focus should be on the emotional impact on *this* child: [Underhill LJ 44-56, Peter Jackson LJ 157-159]
- Undue harshness must not be conflated with the far higher test of "very compelling circumstances". The underlying concept is of an "enhanced degree of harshness sufficient to outweigh the public interest in the medium offender category" [44-56]
- decision makers should take into account the *Zoumbas* principles [55, 84, 114, 153], the best interests of the child [55], emotional as well as physical harm [159], relationships with other family members in the UK [120] and where applicable "the very significant and weighty" benefits of British citizenship [112-116 cf. Patel (British citizen child deportation) [2020] UKUT 45 (IAC)] but note that it will not necessary be an error of law to fail to recite every factor mentioned in HA only those relevant to the case need to be considered MI (Pakistan) v Secretary of State for the Home Department [2021] EWCA Civ 1711 (18 November 2021) [25]
- non-physical harm is an important part of the evaluation and should not be regarded as intrinsically less significant than physical harm [159]. On this point see further MI (Pakistan) where the court rejects the notion that evidence of psychological injury would be required [49]
- 57. The Secretary of State refers to the strong public interest in the deportation of foreign criminals. Reliance is placed upon the conviction and the sentencing remarks of Mr Recorder Miller sitting at the Leeds Crown Court on 19 March 2014 who stated:

Muhammad Zulfiqar, you are 55 years of age. You have a family, including a wife and five children, and I have read the medical evidence relating to your wife. I take into account those commitments. However, as I have just said to your solicitor, it is very often the case that people in your position have children. I also take account of the fact that you have no previous convictions relating to the time that you have spent in the UK.

In February of this year the Jury found you guilty of possessing a British passport that was false and which you knew or believed to be false, and that you had with an improper intention - namely that you were using it to try and obtain employment in the security industry. I had the opportunity of examining that passport, as did the Jury. They were clearly surprised at how good and sophisticated a forgery it was. Apart from the fact that there were some obvious spelling mistakes, no-one who was not an expert in examining passports would ever dream of 16 thinking that it was bogus. In fact, the true owner of the passport was a young man from Birmingham who had reported it lost. As I have already said, and as it was outlined by the Prosecution, you were using that

passport, together with a false National Insurance number, in an application to get employment in the security industry.

In August of last year, immigration officers went to your home, where they found a Pakistani passport. That passport had counterfeit stamps on it. In particular there was one stamp saying that there was no time limit on your stay in the United Kingdom, and that was dated 2th May 2004. Once again, anybody who was not an expert in the examination of such a document would not, upon examination of it, think that there was anything wrong. There were also stamps in the passport indicating that you had been to Pakistan in 2005, although you denied that this had in fact happened. It is therefore left a mystery as to why those stamps relating to a visit to Pakistan are included on the passport.

Unfortunately, the Jury did not believe you when you gave your evidence and I believe you know very much more than you are prepared to divulge about the circumstances in which you acquired the British passport and the stamps in the Pakistani passport.

What is clear is that you are in this country illegally. There is no record of your having entered the UK and, during the course of your evidence, you in fact stated that you had paid £15,000 or thereabouts to an agent in order to come here. As has been made clear, the inevitable consequence of your offending and your being discovered in this country will be that steps will be taken for your removal. Insofar as I am invited to be concerned for your wife and your children, I do appreciate the situation that they are now in, not having your support. It is up to them as to what they do, but they do not have to wait until they are forcibly removed before returning to Pakistan, where I suspect that there would be family support for them.

Leaving aside the issue of your deportation, which is not for me to deal with, as is accepted, any offences like this must inevitably attract a custodial sentence. At its worst, the creation of false documents can aid those who want to engage in acts of terrorism. At a more mundane level, and I should make it clear that I do not believe that there is any connection whatsoever with terrorism in this case, but at your level misuse of false passports undermines the legitimate purposes of the authorities in seeking to regulate immigration and the influx of people who wish to use our health, education and housing services. Having regard to all I have said, the sentences in respect of these two matters will be as follows: with regard to Count 1, that is possession of the UK passport, there will be a sentence of 21 months' imprisonment. In respect of the second count, for possession of the Pakistani passport with counterfeit endorsements, there will be a sentence of 15 months' imprisonment.

Those sentences will be concurrent, notwithstanding the fact that I have in passing sentence taken into account the time lapse between the two offences between March and August last 7 year. The total length of sentence will therefore be 21 months. You will serve half that term in prison and your solicitor will explain how the sentence will operate to you.

- 58. The sentencing remarks not only reflect concerns arising from the nature of the offence itself, but also reflect the lack of honesty of the Appellant in keeping from the prosecuting authorities' details of which the Recorder had good reason to believe he was aware.
- 59. The Appellant claimed that after the visit to the solicitors in Bradford when his wife was taken to the Bradford Royal Infirmary she has been advised by the doctors not to undertake anything strenuous as it could result in a heart attack. In cross-examination the Appellant claimed that this included his wife being told not to go up and down stairs.
- 60. The Appellant referred to his wife being prescribed two additional medicines which must fall within those recorded in the latest letter from the GP, although the Appellant was not able to recall the names of the medication other than that

it was a 75 mg dosage. In reply to a question asked in cross-examination he also said he did not know what the tablet was for.

- 61.Before he came to UK the Appellant confirmed he was working as a motor mechanic and claimed not to own property in Pakistan.
- 62. Miss Young raised with the Appellant the question of what family members he had and how he found out about what had occurred to his parents and in-laws and their dying, to which the Appellant claimed he received information by way of a message from his older brother about his parent. When asked whether he was in contact with his brother the Appellant stated his brother was in Pakistan, claimed not to have contact with them, although when asked why he claimed it was for 'no reason'. The Appellant claimed his brother gave him information regarding the passing of his parents and wanted him to organise the funeral, but the Appellant claimed he did not go.
- 63.A discrepancy in his evidence was raised with the Appellant in that in one statement he was claiming he had three brothers and one sister but in another four brothers and three sisters, to which he stated he had one sister and brothers. When asked about other family members in Pakistan the Appellant claimed that his sister's children and brother's children live there but he has nothing to do with them.
- 64. When the Appellant was asked about his wife's family in Pakistan he claimed they have nothing to do with them at all. The Appellant stated his wife has family in the UK, a brother in Bradford.
- 65. When asked how his wife coped when he was in prison the Appellant claimed the Social Services department helped her. When asked whether, if he was deported, his wife would not have similar help, the Appellant's reply was to ask who could provide help as it was his family, rather than answer the specific question.
- 66. When asked whether he had looked into question of whether Social Services would assist if he was deported, the Appellant stated he had not, adding that there will be nobody here now.
- 67. The Appellant repeated his claim that his wife could not speak English.
- 68.In her cross-examination Mrs Zulfiqar referred to the evidence of the hospitals in London and Bradford and that she had been to the GP and been given tablets. When asked by Miss Young what advice she had received about her mobility and what her GP had said, Mrs Zulfiqar claimed her GP had given her special shoes to wear.
- 69. When asked whether she was happy to go out and about she claimed that she was happy walking. When asked whether when she cleaned the home she needed help, she stated that her husband helped her, and that he was the one who does things when asked.
- 70.Mrs Zulfiqar claimed she has no family in the UK but when it was indicated this was a reference to sibling she claimed one brother and a sister, but suggested she had a fight with them as a result of issues between siblings and her sister and has nothing to do with them anymore.
- 71.Mrs Zulfiqar claimed that some of her family in Pakistan have passed away and when asked by Miss Young whether she was in contact with anybody in Pakistan she stated that she spoke to them and discussed issues with them, but when asked whether they had good relationships with her she claimed she did not talk to them anymore.
- 72. When asked how she coped when the Appellant was in prison Mrs Zulfiqar stated she was heartbroken, in an extreme state, and the Children's Services of Social Services helped her.

- 73. When asked if the Appellant was returned to Pakistan she would get help, she claimed it was not possible without her husband as he was the one who does everything in the house.
- 74.In answer to a question put in re-examination, Mrs Zulfiqar claimed that three people helped during the time her husband was in prison, and when asked whether such help is available or would be sufficient, claimed it would not as he is the father of the children and he should be there.
- 75. That answer is very informative and reflects the fact the bulk of the evidence clearly focused on the needs of the adults rather than the needs of the children or impact upon them of the Appellant's deportation. That was surprising as the direction provided in the error of law finding specifically states that the matter being considered on this occasion is whether the Appellant's deportation from the United Kingdom would be unduly harsh on his wife and children, this being the sole issue. This was because it was not made out the Appellant was entitled to succeed in his challenge to the decision of the Secretary of State on any other basis.
- 76.It is not disputed the Appellant has a genuine and subsisting parental relationship with all five children, nor that he has played a significant role in their lives.
- 77.It was not disputed before me that if the Appellant is deported the children will be able to remain in the UK under the care of their mother, who was able to meet the needs of the children, albeit with support, during the period of the Appellant's imprisonment.
- 78. The Secretary of State does not dispute that the Appellant's deportation will have an emotional impact on the children.
- 79.It was not made out the Appellant's deportation will lead to unduly harsh financial consequences. The Appellant, as he has no valid leave to remain in the United Kingdom has no right to work legally, meaning the family have been supported by benefit payments which will continue if he is removed. There is reference at [49] of the Refusal to a letter from the Adult and Community Services dated 4 January 2019 confirming that they provide financial support to the family. The consequence of being recognised as British citizens and the grant of leave to remain for other family members will entitle them to continuation of financial state support if required. I find it has not been established there will be any adverse fiscal impact or evidence of change or negative impact upon the housing situation if the Appellant is deported. It was not made out the children will not be able to maintain the stability of their current home and school life.
- 80.It is accepted the Appellant has been in UK for 22 years. Concern was expressed in relation to his evidence regarding family members as referred to above when looking at what he claimed in relation to his statement and what was claimed in his screening interview regarding the number of family members in Pakistan. I also accept the submission of Miss Young that no documentary evidence has been provided to support the claim that family members on both the Appellant's and his wife's side, or other family members, in Pakistan have died.
- 81.Despite the claim they have no relatives in Pakistan there is evidence the Appellant has a niece, and of contact. There is also evidence the Appellant's wife has a brother and sister in Pakistan and evidence of contact. I find it has not been established on the evidence that all family members have passed away as claimed, nor that the claim there is no contact with family members in Pakistan is true. I make a finding of fact that the Appellant and his wife have not established they have no contact with members of their family in Pakistan.
- 82.I find the claim contact is no longer taking place as a result of an unexplained dispute or falling out not supported by evidence upon which proper weight may

be placed. Inconsistencies in relation to family members and the nature of the relationships lead to a finding that the Appellant has not established he has no family members in Pakistan or that he would not be able to seek assistance from the same if deported.

- 83.Although the Appellant has been out of Pakistan for some time it is clear he has use of the language, as shown through an interpreter in court. It was not established on his evidence upon which weight may be placed that he has lost all ties or an understanding of the reality of life in Pakistan. The Appellant was employed as a mechanic when he was last in Pakistan and there is no evidence that he would not be able to obtain some form of employment if deported. It was not made out there is a reasonable likelihood he will become destitute.
- 84. The main focus of the evidence has been upon the Appellant's wife's health. I have referred to the medical evidence above, all of which has been taken into account even if not set out in detail within the body of this determination. I make a finding of fact that although we have a recent letter from the Appellant's wife's GP, there is insufficient evidence available to support the claim that the impact of her medical condition is as claimed by the Appellant, namely totally debilitating, or that she would be unable to care for children and meet their needs if he was deported, even if that required some help and assistance. There are five children in this family unit and any single parent with such is likely to welcome and benefit from assistance in such circumstances from time to time.
- 85.In relation to the claim the Appellant's wife cannot speak English, she lives in Bradford where there is a substantial population of Pakistani origin in which Urdu is commonly spoken and in which interpretation services will be provided by the relevant local authority, if required. It is also not made out the children do not speak English and that the elder would not be able to assist if required, assuming the claimed lack of use and understanding of English is true.
- 86.I find there is evidence that Social Services were willing to assist when the Appellant was in prison. There is no evidence they would not be able to provide such help in the future. They have not been asked. It is not made out such assistance as could be provided, when combined with that the children's mother can provide, would not be sufficient to meet the needs of the children. Children's services have considerable experience of meeting both physical and emotional requirements of children. It has not been shown that, together with the school, they will not be able to assist the children with any psychological reaction to their father's deportation.
- 87.I accept the Appellant's removal will have an effect on the family that could be described as harsh. In his original witness statement he gives the impression of a controlling individual who believes he is the head of the family who dictates what members of the family do, including stating what money may be spent on what, rather than entrusting other family members, such as his wife, to be able to do so. It may be there will be a period of readjustment for the family if such a controlling individual is not present while the family re-establishes itself and adjusts to a new routine, but it was not made out there will be any adverse impact on the children, sufficient to warrant a finding of unduly harsh consequences, if this occurs, on the evidence.
- 88.I make a finding of fact there is insufficient evidence to show that social services would not be able to provide appropriate help. I make a finding of fact the Appellant has not demonstrated there will be no assistance as he has not made any effort to establish whether such will be available.
- 89.I take note of the submissions from Miss Choudhry. I do not accept her primary submission that the Appellant and his wife have been consistent in their

evidence. I also do not accept that what they have claimed in their evidence is made out when considering the evidence as a whole.

- 90.I accept Miss Chaudhry's submission that the main issue is whether it will be unduly harsh and whether the undue harshness test has been met, as that is in accordance with the direction given in the error of law decision. The basis on which the Appellant claims he meets the test relates to the impact of removal on the children, with special emphasis on the evidence relating to his wife and the claim that even with help from social services, it will not be enough.
- 91. Miss Chaudhry submitted that the fact social services had assisted in the past gave insight to the fact the Appellant's wife would not be able to cope if he was not present. I accept the principle of such a submission and note the evidence of the Appellant's wife that when he was in prison she "fell apart". The chronology above shows that he was imprisoned in February 2014, 10 years ago. The dates of birth of the five children, Ibrahim Zulfiqar born on the 4 September 2008, Aishah Nazir born on the 21 October 2011, Saira Nazir born on the 21 October 2011, Mohammed Ismail Zulfiqar born on the 18 September 2013 and Sehar Zulfiqar born on the 18 September 2013, show that at the relevant date they were five, three (the first set of twins), and one (second set of twins). Their ages are now set out above. There is a substantial difference between vulnerable babies of a young age when the Appellant was imprisoned, and the cumulative effect of having to meet the needs of two sets of twins under the age of four, and meeting the needs of children who are now 10 years older.
- 92. There is insufficient evidence of any adverse psychological or mental health issues with the Appellant's wife such as to show she will not be able to adequately care for her children.
- 93.It was submitted that even if the same type of social service assistance was available it would not be enough in light of the children's needs and the wife's evidence. The difficulty for the Appellant is that he has provided no evidence of having approached social services to identify what the needs are by way of a relevant assessment or to provide evidence of whether they could or could not be met. It was not made out the children will not be able to travel to and from school, will not be adequately fed and clothed by their mother with or without assistance, or that she could not meet their emotional needs, even if she herself required some support from her GP which I accept may be needed during a time of readjustment.
- 94. Miss Chaudhry submitted that there was no certainty if the Appellant was removed that his wife and the children will be able to cope, but the burden is upon the Appellant to provide evidence to show that if he is removed it will result in unduly harsh consequences for the family. There is no report from an independent social work or sufficient material from any other source to establish that this threshold will be crossed.
- 95.I accept that if the Appellant's wife was hospitalised different care may be required, but it has not been shown it would not be available. I note the claim that if she is present at home that may include 24-hour care, but it was not made out on the evidence that a 24-hour care regime is a normal necessary requirement. I make a finding of fact that the Appellant and his wife have been attempting to construct a picture though their evidence to support a claim of absolute dependency upon the Appellant which would result in catastrophic consequences for this family if he were removed. I do not accept in that respect that either the Appellant or his wife are credible witnesses. I accept his wife has health needs but not that it has been proved that they are severe or will result in the consequences he claims, if he were deported.

- 96.I do not find there is any merit in the submission that it is disproportionate to expect the family to cope overall if the Appellant is removed. It was not made out on the evidence made available that such a claim is credible.
- 97.Although Miss Chaudhry referred to the Appellant's wife's health, many who care for children with large families have health needs and it was accepted she will continue to receive support from the NHS, her GP, and the Bradford Royal Infirmary, if required.
- 98.As the evidence provided in relation to the impact on the children of the Appellant's deportation has focused primarily upon the Appellant's wife's condition rather than the impact of the children directly, I accept Miss Chaudhry's submission that it is necessary to look at whether it can be implied from the evidence as a whole that the impact on the children will be unduly harsh.
- 99. There is a lack of focus in the evidence of any impact resulting from the Appellant's deportation on the children's development, attainment, or mental health, sufficient to establish that even if harsh, the consequences of his deportation would be unduly harsh upon them.
- 100. Considering HA (Irag) I find as follows:
  - o I have not assessed the question of whether deportation will be on due harsh on the children with reference to the distress that any other child might face when their parent is deported. I accept that the best interests of the children would dictate that this family are able to stay together as a family unit but, whilst the primary consideration, that is not determinative.
  - o I have not taken into account or placed weight upon, the normal distress caused by separation from a parent. I have focused upon the impact on each child individually, and cumulatively, within this family unit.
  - o I have not conflated the test of undue harshness with the higher test of very compelling circumstances. I have approached the assessment on the basis of the underlying concept of an enhanced degree of harshness sufficient to outweigh the public interest in the medium offender category.
  - o In relation to the Zoumbas principles:
    - I accept the best interests of the child are an integral part of the proportionality assessment under Article 8 ECHR as noted above, but do not find these to be determinative:
    - I have taken the best interests of the child into account as a primary consideration, although it is not the only primary consideration in a case which there is a strong public interest in deportation, and I accept that the children's best interests do not of themselves have the status of the paramount consideration;
    - I accept that on the facts of this appeal the best interests of the children are such that no other consideration can be treated as inherently more significant and have given the best interests of the children proper weight as part of the proportionality balancing exercise:
    - I have asked the correct questions in an orderly manner in order to avoid the risk that the best interests of the child might be undervalued when other important considerations were in play
    - I have considered all the evidence made available of the children's circumstances and what is in the individual child's best interests when considering whether those interests are outweighed by the

force of other considerations. An issue that arises in this appeal is the choice to focus upon the Appellant and his wife and particularly his wife's medical needs, which form the bulk of the detailed evidence, rather than specifically dealing with the requirements and needs of the children and the consequences of the Appellant's deportation upon them. As insufficient evidence of adverse consequences upon the children of any specific needs have been provided, it is open to me to conclude that the children have no such needs and that are at this stage perfectly normal happy children both at home and within the school environment.

- I have not blamed the children for matters for which they are not responsible such as the Appellant's conduct.
- o I have not been provided with adequate evidence of emotional as well as physical harm to the children if the Appellant is deported. I accept there is likely to be an emotional impact but the extent and consequences of the same is not supported by sufficient evidence.
- o The children's relationship with other family members in the UK is not likely to be impacted as their mother will become their primary carer with no evidence of any need to change or amend any relationship with any other family member or friendships or social groups.
- o I have considered the issue of non-physical harm as an important element of the evaluation as noted above.
- 101. As stated above, I accept the consequence of the Appellant's deportation will be harsh upon any member of this family group and household. What I do not accept on the basis of the evidence available that it will be unduly harsh when considering the elevated threshold denoting something severe or bleak rather than equating with an uncomfortable, inconvenient, undesirable or merely difficult consequences. As found in <a href="HA (Iraq)">HA (Iraq)</a> the addition of the adverb "unduly" raises an already elevated standard still higher.
- 102. I do not find the Appellant has established he can satisfy any exception to his deportation pursuant to section 33 UK Borders Act 2007.
- 103. I now move on to consider Section 117C(6) of the 2002 Act and whether there are very compelling circumstances over and above the exceptions such as to make deportation disproportionate, even if none of those exceptions apply i.e. whether there are circumstances that are more compelling than the existing exceptions see Akinyemi v Secretary of State the Home Department [2017] EWCA Civ 236 at [14].
- 104. The language of the statute is of importance. As found in Secretary of State for the Home Department v Garzon [2018] EWCA Civ 1225, "very" imports a very high threshold and "compelling" mean circumstances which have a powerful, irresistible and convincing effect.
- 105. NA (Pakistan) v Secretary of State for the Home Department & Ors [2016] EWAC Civ 662, Secretary of State for the Home Department v PF (Nigeria) [2019] EWAC Civ 1139, HA (Iraq) v Secretary of State for the Home Department (Rev 1) [2020] EWCA Civ 1176 at [33], reinforce that this is an extremely demanding test which requires a wide ranging exercise so as to ensure that Part 5A produces a result compatible with Article 8 ECHR. That requires a holistic evaluation of all the relevant factors including those which might have already been assessed in the context of the exceptions.
- 106. That assessment must include an application of the principles in the Strasbourg authorities. In <u>HA (Iraq)</u> the Supreme Court endorsed the approach taken in Unuane v United Kingdom -80343/17 [2020] ECHR 832 that following

Boultif and Uner a number of relevant factors must be considered. I set these out and comment upon them as follows:

- In relation to the nature and seriousness of the offence committed by the appellant; the use of forged documents, including passports, is a serious offence which undermines the integrity of the immigration system within the UK which is predominantly document based. The Sentencing Judge use the of forged documents in terrorist-related referred circumstances, but organised crime groups are also involved in the production of false documents which remain a key enabler of organised immigration crime and illegal migrants entering the UK using false documents which they have bought. There is a very strong deterrent element in an appeal of this nature where such documents were used not only to enable the Appellant and his wife to enter the UK illegally, but which he used to remain in the UK, seek employment, and possibly benefit from services that would ordinarily only be available to those with a lawful right to remain in the UK.
- In relation to the length of the Appellant's stay in the United Kingdom: in the chronology set out above and I have made specific reference to this issue. The Appellant has been in UK for a considerable number of years but any private life he has developed was at the time he has been in the U.K. illegally, warranting very little weight being placed upon it when considering section 117 B.
- In relation to the time that elapsed since the offence was committed and the Appellant's conduct during that period: the chronology above shows the offences were committed over a considerable period of time as a result of the use of the illegally obtained document not only to enter the UK illegally, having paid an agent to facilitate such entry, but until the Appellant was eventually apprehended and the forged documents discovered by immigration officials. The use of the documents throughout such a period of time shows this was not a one-off incident but an ongoing continuous period of offending for the Appellant's personal gain.
- I accept there is no evidence the Appellant has offended since he was released from prison.
- The nationality of the various persons concerned is set out above.
- Family situation dynamics is set out above. It has been established the Appellant has family life with his children and effective family life with his wife
- Though the appellant's wife would not have known about the offence at the time when she and the Appellant married, as this may have been whilst they were still in Pakistan, it appears from the evidence that she also benefited from the payment to the agent to enter the UK illegally and must therefore have been aware of the lack of status and the Appellant's criminality. I accept, however, that she has not been charged with any offence.
- Whether there are children of the marriage and if so their ages: this is commented on above.
- Seriousness of the difficulties which the spouse is likely to encounter in the country to which the applicant is to be expelled: this is not applicable as the Appellant's wife and children will remain in the UK and not be expected to return to Pakistan.
- The best interests and well-being of the children, in particular the seriousness of the difficulties which only children are likely to encounter in the country to which the appellant is to be expelled: this is not relevant

as the children are going to remain in the United Kingdom with their mother. Lack of evidence of the seriousness of difficulties is discussed above in relation to the finding of whether the Appellant's deportation will result in unduly harsh consequences.

- Solidity of social, cultural and family ties with the host country and with the country of destination is referred to above: the Appellant has family ties with the UK which have been created developed when he had no lawful leave to be here. I accept the Appellant's ties to Pakistan will not be as strong, but he has not established there are insurmountable obstacles that will prevent his reintegration into Pakistan, especially in light of the evidence concerning family members.
- 107. When considering the three additional matters identified in <u>Jeunesse</u>, referred to in <u>Hesham Ali v Secretary of State for the Home Department</u> [2016] UKSC 60 at [33] I find as follows:
  - Whether there are insurmountable obstacles or major impediments in the way of the family living in the country of origin of the alien concerned: the Appellant has not established insurmountable obstacles or major impediments to his living in Pakistan and the rest of the family shall remain in the UK.
  - Whether there are factors of immigration control, such as a history of breaches of immigration law: the Appellant entered the UK illegally, remained illegally, and used and exploited forged documents to the detriment of UK immigration laws as set out in the chronology above. History of the breaches of the immigration laws shows it was a longstanding issue. The Appellant has no legal right to remain in the UK.
  - Whether the family life was created at a time when the persons involved were aware that the immigration status of one of them was such the presence of that family life within the host state would from the outset be precarious: it must have been known that the family life within the UK was precarious as it was created by illegal entry having paid an agent to facilitate both the Appellant and his wife's entry to the UK. There is little or no comment from the wife in her evidence with regard to this issue. Although the Appellant's wife and children have status to remain, the Appellant does not, and has never had the right or expectation that he will be permitted to remain.
- 108. This is not a case in which the Appellant has established he can meet any of the section 117C Exceptions in conjunction with other factors collectively.
- 109. Although not relevant when assessing whether deportation would be unduly harsh, the seriousness of the offence is relevant to whether there are very compelling circumstances. I have taken into account the period of the sentence which is the starting point in this assessment. The Recorder's sentencing remarks clearly explain whether the sentence was influenced by other factors including the composition of the family unit. The period of imprisonment imposed for a first offence shows the serious nature of the offence for which the Appellant was convicted.
- 110. I do not find it made out there is any aspect of the Appellant's personal history which provides him with adequate mitigation. The Recorder clearly records concerns that the Appellant had not been truthful in fully disclosing what he knew about the forged documents and I find is clearly willing to say what he needs to say to try and secure his own personal desire to remain in the United Kingdom.

- 111. I note the Appellant claims he has not offended since, but rehabilitated cannot itself constitute very compelling circumstances per se. Although I have included this factor in the balancing exercise, I do not find it makes a significant contribution to the assessment when balancing the competing interests to the extent the Appellant would like it to.
- 112. The Secretary of State has a margin of appreciation as to how he assesses the weight to be given to the public interest and factors relied upon by an individual in claiming deportation or removal will be disproportionate. The Secretary of State, having exercised his margin of appreciation in this case, ordered the Appellant's deportation from the UK as a result of his criminal conviction.
- 113. I have considered the date of the deportation order and note that if less than ten years have elapsed since the order was made, there is a presumption that it will be maintained but no presumption to the contrary exists see <u>EYF</u> (Turkey) v Secretary of State for the Home Department [2019] EWCA Civ 592.
- 114. I do not find the Appellant has established there are very compelling circumstances over and above any of the Exceptions.
- 115. Having stepped back from the evidence and having carefully weighed the competing arguments in this appeal, I find the Secretary of State has established that the Appellants deportation from the United Kingdom will be proportionate to any interference with any protected rights, including interference with the family life that he currently enjoys with his wife and children, or the they with him, or individually.

### **Notice of Decision**

116. Appeal dismissed.

**C J Hanson** 

Judge of the Upper Tribunal Immigration and Asylum Chamber

7 May 2024