



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/37976/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 4 December 2014**

**Determination Promulgated
On 23 December 2014**

Before

UPPER TRIBUNAL JUDGE PINKERTON

Between

**MR CHRISTOPHE KERSLEY KEVIN RAMEN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr P Duffy, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Mauritius who was born on 24 October 1992. He is therefore now 22 years of age. He, his sister and his parents applied in 2012 for variation of their leave to remain in the United Kingdom. Their applications were refused on 24 August 2013. Decisions were also made to remove them from the UK by way of directions. The appellant and his family appealed the decisions and the appeals were heard by First-tier Tribunal Judge Seifert. In a decision promulgated on 19 September 2014 the judge allowed the appeals of the appellant's parents on human rights grounds, allowed the appeal of the appellant's sister under the

Immigration Rules, but dismissed the appeal of this appellant under the Immigration Rules and on human rights grounds.

2. The appellant sought permission to appeal the adverse decision against him and permission was granted. The judge doing so commented that the grounds of the application asserted that the judge committed material errors of law because he had not made findings consistent with those relating to the other members of the family, on human rights, dependency, and breach of the human rights of the family which would be caused by his removal and break up of the family unit. The judge had not found compelling, compassionate, circumstances which were evident where the appellant was over 18 and would be separated from his parents and young sister with whom he had always had a family life.
3. The judge granting permission went on to say that the determination showed that evidence was recited and analysed, findings were made about the appellant's family life which were not congruent with the findings concerning the other members of the family, their family life together and the consequences on each of separation. The grounds identified arguably confused findings and conclusions which were open to being interpreted as a material error of law. The application properly raises concerns that the evidence was not properly assessed or weighed or appropriate findings made because of the irrational conclusions.
4. The Secretary of State filed a Rule 24 response submitting that the judge had directed himself appropriately. The appellant did not meet the requirements of the Immigration Rules in relation to his family life under Appendix FM and this was a finding open to the judge on the facts. The judge then went on to find that there are no good reasons to allow the decision under Article 8 outside the Rules which was also a finding open to him on the facts. The further submission was made that the grounds of appeal amounted to no more than a disagreement with a finding of the First-tier Tribunal.
5. On the day of hearing there was no appearance by or on behalf of the appellant. I checked the file and noted that notice of hearing was sent to his representatives on 11 November 2014 and also to the appellant. The notices were sent by first class mail. There having been no appearance by 11.10am I caused a telephone call to be made to the representatives. As reported to me there was no response and a message was left with the representatives. I decided to proceed as there was no indication that the appellant or representatives would necessarily appear and there was no documentation filed in support of the application or any request made for an adjournment.
6. In oral submissions Mr Duffy made the point that the judge did look at the whole family unit in what was a long determination. The appellant's sister, Melissa, only succeeded because the judge found that she was in the middle of her GCSEs and it would be disproportionate for her to be removed at this time. In essence her parents "piggy backed" on that

decision because they are responsible for her care. The appellant himself is an adult and the family life that he enjoys with his parents and sister is not the same as that which he would have enjoyed when he was under 18.

7. The judge found that insofar as the appellant's claim to family life is concerned he continues to live with his parents and sister but there is no evidence of any particular dependency beyond that normally expected with an adult son or adult sibling. He has relatives and friends in the UK but there is no reason why his relationship should not continue were he to return to Mauritius. On any view he could not meet the requirements of the Immigration Rules but to remove him now would not constitute a disproportionate interference with his Article 8 rights. Although he gave evidence that he does not speak Creole/French and that his university course of first choice is not available in Mauritius there was no documentary evidence to support this and in any event it was open to the appellant to apply from Mauritius to study in the UK. Additionally, I note, at paragraph 46, for reasons given there the judge did not find the appellant's parents to be credible witnesses in respect of their ongoing ties with Mauritius. The appellant was brought up and educated in Mauritius until he left there in June 2005.
8. In the grounds seeking permission to appeal it was stated that UKBA have always granted the family visas to stay as a family so the representatives are now confused why one of the dependants should be asked to leave alone. The point, which the judge was clearly aware of is that the appellant is now over age, or put another way, he is no longer a child. That is the difference. On the judge's findings the family has ties still in Mauritius and in considering the life with his family in the UK and with his contact with and knowledge of Mauritius it would be proportionate to expect the appellant to return there despite the fact that he has lived as a family dependant in the UK for a number of years. He cannot meet the requirements of the Immigration Rules. The arguments with the judge's decision are just that and the judge was entitled to conclude as he did for the reasons given.
9. In all the circumstances there are no errors in the determination such as to display a material error of law and there is no other good reason for this appeal to be heard again.
10. In those circumstances the decision of the First-tier Tribunal Judge is upheld.
11. I was not addressed on the matter of anonymity. The circumstances do not appear to require that an anonymity direction be made and therefore I do not make one.

Signed

Date **4 December 2014**

Upper Tribunal Judge Pinkerton