



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

Appeal Number: AA/04626/2014

THE IMMIGRATION ACTS

Heard at : IAC Birmingham

**Determination
Promulgated**

On : 24 June 2015

On : 30 June 2015

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**X M M
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Mohzam of Sultan Lloyd Solicitors

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a national of Cameroon born on 3 September 1977. He came to the United Kingdom in 2004 and claimed asylum in September 2012. His claim was refused on 17 June 2014 and a decision was made on 20 June 2014 to remove him from the United Kingdom.

2. The appellant appealed against that decision and his appeal was heard before the First-tier Tribunal on 7 August 2014 and was dismissed on asylum and human rights grounds in a determination issued on 18 August 2014. Permission to appeal to the Upper Tribunal was granted on 15 December 2014.

3. It is not necessary to set out the details of the appellant's asylum claim, since there has been no challenge to the judge's decision dismissing the appeal on asylum and Article 3 human rights grounds. The grounds of appeal challenge only the decision on Article 8.

4. In his determination, First-tier Tribunal Judge Pooler noted that the respondent had accepted that the appellant was the father of two British children, aged five and three years, who lived with their mother, also a British citizen, with whom he was no longer in a relationship. It was also accepted by the respondent that the appellant had a genuine and subsisting relationship with his children and that he had regular contact with them. The judge accepted that it was not reasonable to expect either child to leave the United Kingdom and that it remained in their best interests to have contact with their father. It was conceded before the judge on behalf of the appellant that he could not meet the requirements of the Immigration Rules relating to family and private life and the appeal was pursued on Article 8 grounds outside the rules. The judge found there to be no arguably good case for granting leave outside the rules and on that basis he found that he did not need to consider whether removal would be unjustifiably harsh. He accordingly dismissed the appeal on Article 8 grounds.

5. Permission to appeal was sought and granted on the basis that the judge had arguably failed to allow the appeal by virtue of section 117B(6) of the Nationality, Immigration and Asylum Act 2002, given his findings in relation to the appellant's children.

6. At the hearing before me, Mr Mills helpfully conceded that the appeal had to be allowed on Article 8 grounds on the basis that, pursuant to section 117B(6), it was not in the public interest to remove the appellant from the United Kingdom.

7. I accordingly set aside the decision of the First-tier Tribunal and re-made the decision by allowing the appellant's appeal. In view of Mr Mills' concession I see no need to set out detailed reasons.

DECISION

8. The making of the decision by the First-tier Tribunal involved the making of an error on a point of law. I set aside the decision and re-make it by allowing the appellant's appeal on Article 8 human rights grounds.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Signed

Upper Tribunal Judge Kebede