



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

Appeal Number: IA/06963/2015

THE IMMIGRATION ACTS

**Heard at Manchester
On May 6, 2016**

**Promulgated
On May 18, 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MRS USTINE MUGABE
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

Appellant

Mr Brown, Counsel, instructed by Arshed & Co Solicitors

Respondent

Mr Harrison (Home Office Presenting Officer)

DECISION AND REASONS

1. I do not make an anonymity order under rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698 as amended).
2. The appellant is a national of Zimbabwe. On December 8, 2014 she applied to her pre-existing leave as a visitor to remain in the United Kingdom as a carer for her daughter and grandchild. The respondent refused her application in a decision dated February 5, 2015.
3. The appellant appealed that decision on March 25, 2015 under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 and the appeal came before Judge of the First-tier Tribunal Parker (hereinafter referred to as "the Judge" on May 18, 2015 as a paper case. In a decision promulgated on June 1, 2015 the Judge dismissed the appellant's application under both the Immigration Rules and article 8 ECHR.

4. The appellant appealed the Judge's decision and permission to appeal was refused by Judge of the First-tier Tribunal Bartlett on August 25, 2015. Permission to appeal was renewed and permission was granted by Upper Tribunal Judge Bruce on October 5, 2015 who found there was an arguable error in law on the basis the Judge had failed to have regard to the totality of the evidence concerning the appellant's relationship with both her daughter and grand-child.
5. The respondent filed a Rule 24 response on October 21, 2015 although when the matter came before me on the above date Mr. Harrison did not rely on that document.

DISCUSSION AND FINDINGS

6. In granting permission to appeal Upper Tribunal Judge Bruce identified an arguable error of law. At the hearing Mr Harrison accepted the Judge had not considered the appellant's relationship with the her grandchild and given the circumstances of the case and the medical issues affecting the appellant's daughter it was incumbent on the Judge to consider Section 55 of the Borders, Citizenship and Immigration Act 2009. He accepted there had been an error in law.
7. I raised with both representatives where this appeal should be heard and both parties agreed with me that in light of Part 3, Section 7.1 to 7.3 of the Practice Statement the matter should be remitted to the First-tier Tribunal as fresh oral evidence and documentary evidence would be needed as the appellant had been unrepresented at the original hearing before the First-tier Tribunal.
8. I direct that any additional evidence should be served on both the Tribunal and other party in accordance with the current Procedural Rules and this should include witness statements from both the appellant and her daughter together with any relevant medical evidence and evidence of income.

DECISION

9. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. I set aside the decision.
10. The appeal is remitted back to the First-tier Tribunal for these issues to be addressed hearing under Section 12 of the Tribunals, Courts and Enforcement Act 2007.
11. I direct that the matter be listed before any Judge of the First-tier Tribunal other than Judge of the First-tier Tribunal Parker.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis