



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/32739/2015**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 22 November 2017**

**Decision & Reasons
Promulgated
On 05 December 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

**ATB
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms U Miszkiel, Counsel, instructed by Chipatiso Associates LLP

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

DECISION AND REASONS

1. This is an appeal from the decision of First-tier Tribunal Judge Devitte, promulgated on 2 December of 2016. There are certain sensitivities in this case and for that reason I make an anonymity order, albeit such order was neither sought nor made in the First-tier Tribunal.
2. The appellant is a national of Jamaica who came to the United Kingdom on 3 June 2012 on a six month visitor visa to visit her grandmother. She did not return within the time limit prescribed.

3. On 30 January 2013 the appellant made an application for leave to remain which was refused on 28 May of 2015. She indicated that she did not wish to claim asylum but wished instead to pursue an Article 8 appeal.
4. The judge sets out the witness evidence which was received in written form and orally from the appellant as well as this evidence again in written form and orally from the appellant's grandmother. The judge came to the conclusion that such evidence lacked credibility. Specifically, the judge rejected the account given that the appellant's family had been at risk of serious harm from an alleged rapist and various gang members.
5. The judge dealt with the issue of the appellant's return to Jamaica at paragraph 10, paragraph 11, reciting the countervailing considerations and proportionality exercise. In paragraph 12 the judge:

"I therefore find that the consequences of interference with the private life of the appellant would not be sufficiently serious to outweigh the public interest given the maintenance of effective immigration control. This is an appellant who has remained in the United Kingdom in deliberate breach of the Immigration Rules and whose explanation for doing so this Tribunal has found to be not credible".
4. Permission to appeal was granted by First-tier Tribunal Judge Hollingworth on the various matters set out in the grounds, which allege that the judge failed to give consideration to paragraph 276ADE of the Immigration Rules particularly by reference to whether there were insurmountable obstacles to the appellant upon returning to Jamaica. The grounds also allege that the judge failed to give sufficient reasons in his determination for coming to the conclusions that he did.
5. Ms Miszkiel, who appears on behalf of the appellant today, did not represent her before the First-tier Tribunal nor did she settle the Grounds of Appeal. She made oral submissions in relation to the pleaded Grounds and placed further reliance on what she stated is a **Robinson** obvious point, namely that the judge failed to engage with relevant case law in coming to the conclusions which he did.
6. Counsel's submissions relate to the absence, as she puts it, of reasons for finding the evidence of the appellant and her grandmother not to be credible. I do not consider these criticisms to be well-founded. The judge's reasons are briefly expressed but are perfectly adequate for the purposes of a determination such as this. A First-tier judge has the advantage of hearing the witnesses delivering their evidence and is in a far better position to assess its credibility than the Upper Tribunal in its reviewing capacity. I can see nothing wrong in the way in which the judge succinctly expressed his conclusions in this regard.
7. Equally I can see nothing wrong in the Article 8 analysis which the judge undertook. There was no express reference to paragraph 276ADE nor to

Article 7 or Section 117B. However, reading the decision holistically it is abundantly plain that adequate regard was given both to the statutory tests and the case-law framework within which appeals of this type fall to be assessed.

8. The judge properly had regard to those factors which militated in the appellant's favour and those against her. The judge came to a conclusion which was adequately reasoned and I can detect no error of law. I do not consider that the fact that no cases are referred to is in any way suggestive of the judge not applying the correct test in this regard.
9. The former practice of overly lengthy decisions is one which has been deprecated by both the Upper Tribunal and by the Court of Appeal. The comparative brevity of this determination is not suggestive of any error of law or denial of justice. The matter received full consideration from the First-tier Tribunal and in the circumstances this appeal must be dismissed.

Notice of Decision

The appeal is dismissed and the decision of the First-tier Tribunal is affirmed.

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 him or any member of their 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.

Signed *Mark Hill*

Date

4 December 2017

Deputy Upper Tribunal Judge Hill QC