



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

Appeal Number: IA/03884/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 29 April 2014**

**Determination Sent
On 28 May 2014**

Before

UPPER TRIBUNAL JUDGE MOULDEN

Between

MR JIANG DONG GUO

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E Fan a Solicitor from Fletcher Day LLP

For the Respondent: Mr G Saunders a Senior Home Office Presenting Officer

DECISION AND DIRECTIONS

1. By a Decision dated 8 July 2013 Upper Tribunal Judge Spencer set aside the decision of the First-Tier Tribunal allowing the appellant's appeal against the respondent's decision of 21 January 2013 to remove the appellant to China following the refusal of his asylum and human rights claims. He adjourned the reconsideration of the appeal to a "for mention" hearing because the appellant's partner, the mother of their two children, had an outstanding application made to the respondent. At that stage neither representative was able to say what the application was for although it is now apparent that it was for an extension of discretionary leave granted to her after she

arrived in this country as an unaccompanied minor. She claimed to fear persecution in China. At the date of Upper Tribunal Judge Spencer's Decision the respondent had not made a decision on this application.

2. The appeal came before Upper Tribunal Judge Craig on 20 August 2013 at which stage the respondent had still not decided the application. There was a further adjournment.
3. Today Mr Saunders tells me that yesterday (28 April 2014) the respondent made a decision to refuse the appellant's partner's application. The written decision should reach her within the next few days. Both representatives agreed that in the circumstances the best course of action would be to remit this appeal for re-determination by the First-Tier Tribunal after it has been linked with the appeal which I am told the appellant's partner will now bring against this decision.
4. In the circumstances I remit this appeal to be reheard in the First-Tier Tribunal sitting at Taylor House by a judge other than First-Tier Tribunal Judge Whalan. The rehearing should not take place until this appeal can be linked and heard with the appeal to be brought by Ms Shu Nei Chen, unless no such appeal is made within three months of 29 April 2014. If no such appeal has been made within that time then this appeal should be reheard on its own.

Signed:.....
2014
Upper Tribunal Judge Moulden

Date: 30 April