



**The Upper Tribunal
(Immigration and Asylum Chamber)
IA/08571/2014**

Appeal number:

THE IMMIGRATION ACTS

Heard at Birmingham

**Decision & Reasons
Promulgated**

On March 9, 2016

On March 29, 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MRS NAN ROSALIE STEWART
(NO ANONYMITY DIRECTION)**

Respondent

Representation:

Appellant

Mr Diwnycz (Home Office Presenting Officer)

Respondent

Mr Vokes, Counsel, instructed by Patrik Klaus
Helmut Kube

DECISION AND REASONS

1. The respondent in these proceedings was the appellant before the First-tier Tribunal. From hereon I have referred to the parties accordingly so that for example reference to the respondent is a reference to the Secretary of State for the Home Department.

2. The Appellant is a citizen of South Africa. The appellant entered the United Kingdom on December 20, 2007 with UK Ancestry entry clearance valid until October 18, 2012. On April 4, 2013 she applied for indefinite leave to remain on the basis of ancestry and human rights. The respondent refused her application on January 15, 2014. The appellant appealed this decision on February 14, 2015 under section 82(1) of the Nationality, Immigration and Asylum Act 2002
3. The respondent gave the appellant an out of country appeal right and as an in-country appeal was lodged the matter was put before a Duty Judge at Arnhem House on a validity issue. On April 16, 2014 a Duty Judge directed that the matter be listed for a hearing with the issue of validity to be addressed at that hearing.
4. The appeal came before Judge of the First-tier Tribunal Parkes on December 31, 2014 and in a decision that was not sent to the parties he concluded there was a valid in country right of appeal. He later heard the substantive appeal on April 21, 2015 and in a decision promulgated on May 18, 2015 he refused the appeal under the Immigration Rules and under the Immigration (European Economic Area) Regulations 2006.
5. The respondent lodged grounds of appeal on May 20, 2015 submitting the First-tier Judge had erred by considering the appeal and had failed to give reasons for finding there was jurisdiction.
6. Judge of the First-tier Tribunal Grant-Hutchinson gave permission to appeal on this point on July 13, 2015.
7. The matter came before me on the above date and I passed to both parties a copy of Judge of the First-tier Tribunal Parkes's decision on jurisdiction. Mr Diwnycz considered the same and thereafter indicated he had no further submissions to make on the appeal grounds in light of what was contained in that decision. Mr Vokes invited me to dismiss the appeal.
8. The respondent's appeal was based on the fact the Judge had not given any explanation for accepting jurisdiction. Sadly, his decision had not been sent to either party because if it had then I am satisfied no appeal would have been brought. The Judge quite properly explained why there was jurisdiction to hear the appeal and consequently the grounds have no merit. In any event, the explanation given in that earlier decision was correct in law and there could not therefore be a material error in law.
9. The First-tier Tribunal did not make an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 I make no order now.

DECISION

10. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law. I uphold the First-tier Tribunal's decision.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis

FEE AWARD

I make no amendment to the fee award decision.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis