



IAC-FH-CK-V1

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

Appeal Number: IA/30122/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24<sup>th</sup> February 2016**

**Decision & Reasons  
Promulgated  
14<sup>th</sup> March 2016**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MISS ERNESTINA RUTH TUFFOUR  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Ms S Sreeraman, Home Office Presenting Officer  
For the Respondent: Mr D Adama-Adams, Counsel instructed by Makanda Bart & Co

**DECISION AND REASONS**

1. This is an appeal by the Secretary of State to the Upper Tribunal in relation to a Decision of Judge Sweet of the First-tier Tribunal promulgated on 18<sup>th</sup> August 2015.

2. The judge was dealing with the Appellant and her family members as dependants being her husband and three children. The three children were born in 2005, 2010 and 2013. They had applied under Appendix FM to remain in the United Kingdom. The judge correctly identified that the only member of the family who could benefit under the Rules at all was the child [P], that child being in the United Kingdom throughout her life, so from 2005.
3. The judge then on that basis considered in extremely brief findings, indeed in relation to [P] it is three lines, that it would not be reasonable to expect her to leave the UK where she had spent all her life, nor would it be reasonable for the rest of her family including the Appellant to leave the UK. That finding is completely unreasoned, particularly when you take into account the fact that [P] is one member of a family of five the other four of whom had no leave to be in the UK.
4. I therefore have no difficulty in finding in favour of the Secretary of State's grounds that the First-tier Judge made an error of law. The error of law goes to the heart of the Decision because the only reason the appeal would succeed was because of the Decision in relation to the child [P] and so it is to be set aside in its entirety.
5. Mr Adams on behalf of the original Appellant does not seek to argue that the judgment can be saved. It is fair to say that the Appellant did not have a proper hearing or a reasoned Decision before the First-tier and therefore as it has to be completely reheard, and that is accepted by both Mr Adams and Ms Sreeraman, the appropriate forum for rehearing is the First-tier Tribunal.

### **Notice of Decision**

I therefore allow the Secretary of State's appeal to the Upper Tribunal, set aside the Decision of Judge Sweet and remit it to the First-tier for a full rehearing on all issues. The appeal should be heard at Taylor House as that is the appropriate venue for where the Appellant resides.

No anonymity direction was requested and I do not make one.

Signed

Date 4<sup>th</sup> March 2016

Upper Tribunal Judge Martin

