



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/01849/2018**

Appeal Numbers:

THE IMMIGRATION ACTS

**Heard at Field House
On 21 March 2019**

**Decision &
Promulgated
On 08 May 2019**

Reasons

Before

**THE HONOURABLE LORD UIST
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
UPPER TRIBUNAL JUDGE McWILLIAM**

Between

**MR ALFORD ERROLL WILLIAMS
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Iqbal, Legal Representative

For the Respondent: Mr E Tufan, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Grenada. His date of birth is 3 April 1997. He appealed against the decision of the respondent on the ground that the respondent's decision to deport him (following a conviction for serious offences for which he received a sentence of 7 years imprisonment) breached his rights under Article 8 of the European Convention on Human Rights. The appellant did not attend the hearing. FTTJ Cohen dismissed his appeal on the merits, having decided at [19] that it was in the interests of justice to proceed in his absence. The appellant was granted permission to appeal by FTTJ Robertson on 14 January 2019. The sole ground of

appeal is that the judge did not consider an application to adjourn which was received by the FTT the night before the hearing.

2. We feel as that we have no option in this case but to set aside the decision of the FTT and remit to the FTT for a fresh hearing. We do so the ground of procedural unfairness. We are satisfied that an application to adjourn was made by the appellant and that it was received by the FTT before the hearing. We are satisfied that it was not placed before FTTJ Cohen when he decided to proceed in the appellant's absence. There was some evidence in support of the application that the appellant was at Charing Cross Hospital on the day of the hearing, having complained of chest pains.
3. At the same time we have to remark that we are concerned about both the quality of the application that was sent at the eleventh hour the night before the hearing and the possible justification for the application. It would appear from the material to which we have been referred that there was no acute episode requiring the appellant's attendance at hospital on both 28 and 29 November 2018. We are also surprised that, although he was seen at one hospital on the morning and early afternoon of 28 November 2018, he did not attend at Charing Cross Hospital until the morning of 29 November 2018. There was no explanation given for the appellant having failed to comply with directions of the FTT. There was no explanation given by those representing him why they did not attend the hearing. Nevertheless, as stated we are satisfied that an application was made with supporting evidence and that this was not properly put before the judge. The FTT will be mindful of our comments about the adjournment application. In the event of the appellant failing to attend a future hearing, the FTTJ may consider checking whether there has been an application made which has not been properly linked to the file. The decision of the FTT is set aside because of a procedural irregularity. The matter is remitted for a fresh hearing.

Signed Lord Uist

Date 30 April 2019

Lord Uist
Sitting as a Judge of the Upper Tribunal