



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

Appeal Number: HU/08680/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 31 July 2020**

**Decision & Reasons Promulgated
On 17 August 2020**

Before

**UPPER TRIBUNAL JUDGE PERKINS
UPPER TRIBUNAL JUDGE BLUNDELL**

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

JOSHUA [E]

(anonymity direction not made)

Respondent

Representation:

For the Appellant: Mr T Lindsay, Home Office Presenting Officer

For the Respondent: Mr E Fripp, Counsel instructed by Duncan Lewis & Co
Solicitors (Harrow Office)

DECISION AND REASONS

1. We see no need for, and do not make, any order restricting publicity about this appeal.
2. This decision is based very closely on the transcript of the extempore judgment but is the subject of some modest revision and uncontroversial details have been added.
3. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal dismissing the appeal of the respondent, hereinafter “the

claimant", against a decision of the Secretary of State refusing him leave to remain on human rights grounds. The claimant is subject to deportation. His criminal behaviour is discreditable; he was in trouble as a young person and most recently he was convicted of burglary with intent to steal. It was the third time that he was convicted of burglary and consequently his conduct attracted a mandatory sentence of three years' imprisonment. It is this most recent sentence that has prompted the deportation order that has led to these proceedings. It is right to say that a previous deportation order was set aside and a warning letter issued.

4. Plainly nobody will have a great deal of sympathy for the claimant in the predicament that he put himself. However he has been in the United Kingdom for a long time. He was born in 1990 and has lived in the United Kingdom since 1992. He was granted Indefinite Leave to Remain shortly thereafter. The vast majority of his short life has been spent here.
5. We are satisfied that the First-tier Tribunal clearly had its mind on Exception 1 to deportation, as set out in section 117C(4) of the Nationality, Immigration and Asylum Act 2002. It asked itself if the claimant had spent most of his life lawfully present in the United Kingdom (which he clearly has), whether he had established social and cultural integration to the United Kingdom and whether there were very significant obstacles in the way of re-establishing himself in his country of nationality.
6. The Secretary of State says that the concept of integration, as considered in Binbuga v SSHD [2019] EWCA Civ 551; [2019] Imm AR 1026 was not understood properly by the Tribunal and is barely, if at all, reflected in the decision. We just do not agree with that. Paragraph 64 of the First-tier Tribunal's decision is quite clear. The judge clearly had in mind the proper approach to the analysis of integration; she set out the Presenting Officer's submissions, as below, and said:

"It was submitted by [the Presenting Officer] the [Secretary of State's representative] that because of the [claimant's] offending and time spent in prison, the [claimant] had not fully integrated into British society. I find looking at the periods the [claimant] has spent in prison and the length of time he has lived in the United Kingdom, on balance, the [claimant] has integrated into British society and he has spent more time in British society mingling with family and friends who are British and law-abiding persons, evidenced by the many letters of support from some of these family and friends."

7. The judge then referred to a reported decision that gave some support to this analysis. We cannot agree with Mr Lindsay that this paragraph has origins in anything other than the need to consider integration and it was considered, it was resolved in favour of the claimant and the reasons are perfectly sensible in law. She clearly had in mind the possibility that the claimant's offending might militate against a conclusion that he was integrated to the UK and decided, perhaps unsurprisingly given his length of residence, that it did not.

8. The judge in paragraph 65 made plain that she had in mind the “very significant obstacles” test and the judge found unequivocally that the claimant would have no understanding of the:
“culture and mores of Grenada, having lived in the United Kingdom since then without returning to Grenada”.
9. The judge then referred to a well-known passage from the decision of the Court of Appeal in **Kamara [2016] EWCA Civ 813**. Mr Lindsay acknowledges that the case was mentioned but says, with some justification, that it is an important part of the test in **Kamara** that a person will not be able settle into the country in a *reasonable time*. It is not the case that the returned offender has to be able to settle in straight away. That point is also answered by reading the Decision and Reasons. It is there in paragraph 67 where the judge says:
“it will take time for someone who is an ‘outsider’ to understand enough about how things are done in Grenada in order to participate fully in that society”.
10. It may be that the judge could have expressed this conclusion rather better but again it is perfectly obvious the judge had in mind that it was not a question of how things are going to be immediately on return but whether or not the claimant was going to be able to manage. She clearly applied the test which she had cited moments before.
11. Then there were two telling paragraphs. One is at paragraph 68 where there was a recognition that the claimant has no meaningful social ties in Grenada and it was said that there were no friends or anyone who would have any interest in providing any support.
12. We have to say that this is not surprising. We are surprised at the readiness with which the Secretary of State and, sometimes, Tribunals are willing to assume that long-lost distant relatives will have any interest in supporting a disgruntled and disaffected young person from the United Kingdom. Here the judge was entitled to conclude from the evidence that there was no such support in this case.
13. Then there is paragraph 69 which we find is important and perhaps goes to the very core of her findings here. The judge said:
“The [claimant] is not highly educated. He was excluded from both primary and secondary schools and as a result he has limited educational and work skills. I find this will impact on the [claimant’s] search for employment in a small island such as Grenada.”
14. Well, perhaps the judge is using tactful language. The point is the judge has formed a view of the abilities of this particular claimant, which is one of the things she was there to do, and decided, having read about him and observed him, that he was not going to “make it”. It should not be overlooked that he has been in the United Kingdom since he was 2 years old. That was a very long time. He has no meaningful links with his country of nationality and he has very limited social and educational skills

to prepare him for life in that country without anyone to support him. It is not necessarily a view that everybody would have reached and with respect to the First-tier Tribunal Judge no doubt with the wisdom of hindsight and a great deal of time the points could have been made better but we are entirely satisfied that the correct legal tests were identified and points and conclusions were reached that are intelligible and open to the judge. That is a sufficient reason for dismissing the Secretary of State's appeal.

15. There is another point here that needs to be mentioned. For reasons that are not entirely clear, when permission was granted (by an experienced Designated Judge of the First-tier Tribunal) it was granted as if the Secretary of State had made criticisms of findings on "Exception 2" (which were adverse to the claimant) but no such criticisms were made by the Secretary of State. It follows that the terms of the grants of permission caused a certain amount of confusion which no doubt Mr Fripp would have dealt with deftly if the need had arisen. We have read his skeleton argument but we see no need to engage with the arguments raised therein (as permitted by SSHD v Devani [2020] EWCA Civ 612; [2020] 1 WLR 2613) about the correctness of the judge's conclusions in respect of Exception 2. We are satisfied, for the reasons given, that the judge directed herself correctly and reached an open conclusion and the Secretary of State's appeal therefore must be dismissed. That is our decision.

Notice of Decision

The Secretary of State's appeal is dismissed.

Jonathan Perkins
Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 10 August 2020