



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/06291/2013

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Glasgow
on 20 November 2013**

**Notification issued:
on 4 December 2013**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

LIFANG ZENG

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Katani & Co,
Solicitors

For the Respondent: Mrs M O'Brien, Senior Presenting Officer

NOTIFICATION OF WITHDRAWAL

1. The respondent refused the appellant's protection claim on asylum and on all other available grounds for reasons explained in a letter dated 19 June 2013. Oddly, the letter dealt with the issue of the best interests of the appellant's child, although no child was yet born.
2. First-tier Tribunal Scobbie heard the appellant's appeal on 2 August 2013 and dismissed it by determination promulgated on 20 August 2013. The appellant still had no child but, misled by the approach of both sides, the judge also dealt with the case in part by considering "the best interests of the child".

3. The appellant gave birth to a son on 26 August 2013. The father is the appellant's husband, a Chinese citizen with indefinite leave to remain in the UK. The child is entitled to both Chinese and British citizenship.
4. The grounds of appeal to the Upper Tribunal are based on "the best interests of the child" and "the article 8 rights of the appellant's husband".
5. An unborn child has no rights in immigration law. However, the Presenting Officer suggested that it would be undesirable to try to unravel the confusion so far or to reach what might effectively be an initial decision in the Upper Tribunal. She sought to withdraw the respondent's case, on the basis that a fresh decision based on current circumstances would be made. The appellant's counsel did not wish to argue against that course, which seems sensible and pragmatic.
6. In terms of the Tribunal Procedure (Upper Tribunal) Rules 2008, Rule 17, the respondent's case is recorded as having been **withdrawn**, with the consent of the Upper Tribunal.



Judge of the Upper Tribunal
20 November 2013