



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

**Appeal Number: IA/44937/2013
IA/44946/2013**

THE IMMIGRATION ACTS

**Heard at Field House
On 14 April 2015**

**Decision Promulgated
On 6 May 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE BIRRELL

Between

**KIMBERLEE KIMESHA MORRISON
AARON ANTONIO ISAAC MORRISON
(ANONYMITY DIRECTIONS NOT MADE)**

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Adams counsel instructed by Cleveland Law Ltd
For the Respondent: Ms A Aisha Broklesby-Weller

DECISION AND REASONS

Introduction

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.

2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Buckwell promulgated on 2 September 2014 which dismissed the Appellants appeals against a decision dated 10 October 2013 refusing leave to remain on the basis of their family and private life.

Background

3. The Appellants are a mother and son was born on 8 August 1985 and 31 May 2006 respectively and they are nationals of Jamaica.
4. The first Appellant entered the United Kingdom as a visitor on 20 January 2002 when she was 17 years old. She then had leave as a student until 30 September 2006. In June 2010 the first Appellant with her son as dependent applied for leave to remain in the United Kingdom on the basis of her human rights by reference to Article 8 ECHR. The application was refused on 28 July 2010 with no right of appeal. It was reconsidered and again refused on 8 May 2013. Pursuant to a Consent Order it was further reconsidered but was again refused on 10 October 2013 and directions were made for the removal of the Appellants under section 10 of the Immigration and Asylum act 1999.
5. The refusal letter gave a number of reasons:
6. The first Appellant could not meet the requirements of Appendix FM as a Parent as her child had not lived in the United Kingdom for 7 years prior to the date of application; also the first Appellant could not meet the eligibility requirements as she had remained in the United Kingdom in breach of immigration laws since 2006. The second Appellant could not meet the requirements of Appendix FM for leave as a child because his mother did not meet the eligibility requirements; he did not meet the requirements of EX.1 because he had not lived in the United Kingdom for 7 years prior to the date of application. The provisions of paragraph 276ADE were considered. It was not accepted that the Appellant had no ties with Jamaica.

The Judge's Decision

7. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Buckwell ("the Judge") dismissed the appeal against the Respondent's decision. The Judge found :
 - (a) The Appellants could not meet the requirements of Appendix FM.
 - (b) The first Appellant had ties to Jamaica.
 - (c) The second Appellant had not lived in the United Kingdom for 7 years at the date of the application.
 - (d) The Judge considered Article 8 outside the Rules and in relation to the best interests of the second Appellant who is a minor took account of the case of EV (Philippines) [2014] EWCA Civ 874.
 - (e) The Judge concluded that it would not be disproportionate to remove them.
8. Grounds of appeal were lodged arguing in essence that :
 - (a) The Judge failed to have regard to the Immigration Rules.
 - (b) The Judge failed to take into account the best interests of the child.

- (c) In determining that the Appellants could enjoy family life in Jamaica the judge failed to take into account the factual basis against which their life would be pursued.
 - (d) Removal would result in unjustifiably harsh consequences.
9. On 11 February 2015 Upper Tribunal Judge Reeds gave permission to appeal stating that notwithstanding the generalised nature of the grounds of appeal it was arguable that the judge had failed to make specific findings in relation to his assessment of whether the Appellant had lost her ties to Jamaica as required by paragraph 276 ADE(vi)
10. At the hearing I heard submissions from Mr Adams on behalf of the Appellant that:
- (a) He relied on the grounds of appeal.
 - (b) The Judge had failed to make findings in relation to whether the Appellant had lost her ties to Jamaica given that she was a minor when she left.
11. Ms Brockelsby Weller on behalf of the Respondent submitted that :
- (a) The Judge set out at paragraph 53 that he had considered the evidence and concluded that the Appellant had ties to Jamaica: the Appellant had given evidence that she left the country when she was 17 but paragraph 24 records her evidence that she had relatives in the country and this was re iterated in the Respondents submissions at paragraph 38.
 - (b) The Judge provides brief but adequate reasons for her conclusion that the Appellant had ties to Jamaica.
 - (c) The Article 8 assessment took into account the best interests of the child Appellant.

Finding on Material Error

12. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.
13. The grounds of appeal as advanced by those representing the Appellant focused on what it considered to be the inadequacy of the Judges Article 8 assessment in particular in relation to the best interests of the children. The permission by contrast suggested that the decision recorded the evidence of a dispute as to whether the Appellant had ties to Jamaica and granted permission on that basis.
14. I am satisfied that the evidence of the Appellant as recorded by the Judge at paragraph 24 against which she made her assessment as to whether the Appellant had ties to Jamaica was :
- “The Appellant referred to her relations in Jamaica being certain aunts and uncles from her father’s side. ... There were cousins in Jamaica but most of her friends she had known when she was in Jamaica had now migrated.”
15. Therefore the Appellant’s own evidence was that she was aware that she had aunts, uncles and cousins in Jamaica. It is also clear that while she states that ‘most’ of her friends had left Jamaica the inevitable inference was that she still had friends there. While not explicit about it the Judge would have been entitled to conclude that given she had both family and social friends in her home country the adult Appellant had the choice of approaching such people for support when she returned to Jamaica.

16. I am therefore satisfied that against this factual background the Judge was entitled to conclude as she did at paragraph 53 that given her evidence was that she had both family and social ties that she was aware of in Jamaica she had ties that met the requirements of paragraph 276 ADE (vi).
17. The Judge's assessment of the Appellants' case under Article 8 is at paragraphs 54-59. I am satisfied that her assessment is adequate given that the starting point must be the neither of the Appellants meets the requirements of the Rules which must be given weight in the balancing exercise. I am satisfied that the Judge directed herself appropriately in relation to the best interests of the child taking into account the most up to date caselaw in paragraph 57. The conclusions that she reached were open to her.
18. I remind myself of what was said in Shizad (sufficiency of reasons: set aside) Afghanistan [2013] UKUT 85 (IAC) about the requirement for sufficient reasons to be given in a decision in headnote (1): "*Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge.*"
19. I was therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and while brief they must be assessed against the evidence given by the Appellant which she accepted.

CONCLUSION

20. **I therefore found that no errors of law have been established and that the Judge's determination should stand.**

DECISION

21. **The appeal is dismissed.**

Signed

Date 2.5.2015

Deputy Upper Tribunal Judge Birrell