



IAC-FH-CK-V1

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

Appeal Number: DA/01599/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 21 January 2016
Extempore judgment given**

**Decision & Reasons Promulgated
On 5 February 2016**

Before

**UPPER TRIBUNAL JUDGE COKER
DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN**

Between

MR BRADLEY RICARDO BUCHANAN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Kirk, Counsel instructed by Bail for Immigration Detainees (London)

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

**EXTEMPORE
DECISION AND REASONS**

1. This is the appeal of Mr Bradley Ricardo Buchanan, who was granted permission to appeal the decision of the First-tier Tribunal which was promulgated on 2 June 2015 following a hearing on 28 May 2015. Mr Buchanan is the subject of a deportation order made on 24 July 2014 having been convicted of conspiring to sell or selling a prohibited weapon and selling ammunition when not a registered dealer. He was sentenced to six years' imprisonment. He had a number of previous convictions as well.

The substance of the appeal concentrated on the relationship that he had between his partner, former partners and children and his social and cultural ties within the UK given that he has been here in the UK since he was a very young child.

2. The judge went through each of the arguments and submissions that were made to him and reached findings which are set out in considerable detail from paragraph 56 of his decision. The judge considered the nature and the seriousness of the offence, the length of time in the UK, his conduct since the offence, the nationalities of the various persons concerned, his family, whether his spouse and partner knew of the offence when entering into the relationship, the ages of the children, the seriousness of difficulties a partner may encounter overseas, the best interests of the children, the social, cultural and family ties with the host country and country of destination.
3. The judge reached findings on those matters which in this appeal the appellant disagrees with. The disagreements are set out in the application for permission to appeal and referred to as evidence that the judge has allegedly not taken account of and the judge's approach to the previous decisions and previous evidence.
4. Our view is that the conclusions reached by the judge on those matters were conclusions that were open to him on the basis of the evidence before him. It may be that another judge might have reached a different conclusion but the conclusions reached were not perverse. However, even if each and every criticism of the judge's findings as regards the appellant's private and family life in the UK, the extent of his social and cultural integration into the UK, whether or not he knows anyone or would be able to reintegrate into Jamaica were taken at its highest those matters only go to paragraphs 399 or 399A of the Immigration Rules.
5. This appellant has been convicted of very serious offences and has been sentenced to six years' imprisonment. He therefore has to show very compelling circumstances over and above those in the two Exceptions. Although the skeleton that was presented to the First-tier Tribunal has a heading of "very compelling circumstances" the references in that skeleton actually only go to 399 and 399A.
6. Mr Kirk submitted that the judge ought to have looked properly and given proper and fuller reasons in connection with the two Exceptions and that those matters themselves would impact on whether there were very compelling reasons. Although there may well be circumstances where family relationships are such that they do amount to very compelling circumstances over and above the requirements to meet 399 or 399A there is nothing in this appellant's circumstances that even approaches that.
7. Furthermore the First-tier Tribunal in paragraph 101 states:

“The test of ‘very compelling circumstances’ is clearly a high standard and requires circumstances over and above those specified in the Exceptions. I find that no evidence has been presented, which leads me to conclude that there are such very compelling circumstances such as to outweigh the public interest in deportation of a foreign criminal who has committed such serious offences for which he was sentenced to six years’ imprisonment.”

8. The application for permission to appeal does not challenge that finding. The application for permission to appeal does not assert that evidence had been presented or what evidence had been before the Tribunal addressing the very compelling circumstances test such that the First-tier Tribunal Judge erred in law, and for those reasons we find that there has been no error of law such that the decision of the First-tier Tribunal is set aside to be remade.

Notice of Decision

The decision of the First-tier Tribunal therefore stands.

No anonymity direction is made.

Signed

Date 21st January 2016

Upper Tribunal Judge Coker