



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

Appeal Number: PA/03101/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 13 September 2018**

**Determination
Promulgated
On 30 October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE I A M MURRAY

Between

**[P D]
(ANONYMITY HAS NOT BEEN DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Malhotra, Counsel for Shan & Co Solicitors, Harrow, Middlesex

For the Respondent: Mr Kandola, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Jamaica born on [~] 1977. She appealed the respondent's decision of 20 February 2018 refusing her claim for asylum, humanitarian protection and on human rights issues. Her appeal was heard by Judge of the First-Tier Tribunal Devittie on 6 April 2018 and was dismissed on all grounds in a decision promulgated on 8 May 2018.

2. An application for permission to appeal was lodged and permission was granted by Judge of the First-Tier Tribunal Hollingworth on 25 July 2018. The permission states that it is arguable that the Judge has not dealt sufficiently with the question of whether he was able to consider if there is a breach of Article 8 outside the Rules or the question of proportionality.
3. There is no Rule 24 response.

The Hearing

4. The Presenting Officer submitted that the grounds are brief and the Judge omitted to mention Article 8 of ECHR in any of his findings. The Presenting Officer suggested that the First-tier Tribunal judge's decision should be set aside and the appeal remitted to the First-Tier Tribunal.
5. Counsel agreed with this, asking for the case to be remitted.
6. At question 140 of the asylum interview the appellant refers to her private and family life and her relationship with her step-children.
7. I asked if Article 8 was pleaded before the First-Tier Judge but this was not answered.
8. This is an asylum claim and human rights and Article 8 of ECHR should be considered along with the claim for asylum and humanitarian protection. The Judge makes reference to the previous human rights appeal which was dismissed and in his decision, he states the appeal is dismissed on human rights grounds, however Article 8 has not been considered by him in his decision and this is a material error of law.

Notice of Decision

9. As I find that there is a material error of law in the Judge's decision I direct that the decision of the First-Tier Tribunal is set aside. None of its findings are to stand other than as a record of what was said on that occasion. It is appropriate in terms of Section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to remit the case to the First-Tier Tribunal for an entirely fresh hearing.
10. The members of the First-Tier Tribunal chosen to consider the case are not to include Judge of the First-Tier Tribunal Devittie.
11. Anonymity has not been granted.

Signed

Date 22 October 2018



Deputy Upper Tribunal Judge IAM Murray