



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

Appeal Number: PA/03367/2015

THE IMMIGRATION ACTS

Heard at Field House

On 18th May 2018

**Decision and Reasons
Promulgated
On 25th May 2018**

Before

UPPER TRIBUNAL JUDGE RIMINGTON

Between

**S F P
(Anonymity Direction Made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Lee, instructed by Quality Solicitors.

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Jamaica and is recorded as having experienced mental health difficulties (schizophrenia) and subjected to sexual abuse. She appealed against the Secretary of State's decision dated 27th November 2015 refusing her protection claim.
2. In a determination dated 8th December 2017 Judge of the First Tier Tribunal Judge Mr R J Walters refused the appellant's appeal on all grounds.

Application for Permission to Appeal

3. An application for permission to appeal was made on the following four grounds
 - (i) the judge took into account an irrelevant factor – that being the Facilitated Return Scheme (FRS) - this only applied to deportees. Further this was not raised at the hearing.
 - (ii) the judge failed to take into account relevant material – specifically pages 37- 64 of the report entitled ‘Sent “Home” with Nothing’ on the Deportation of Jamaican nationals with mental health difficulties. This illustrated the difficulties that awaited those with mental health difficulties with regards reintegration, such as employment and homelessness and the passages were specifically cited to the judge.
 - (iii) it was incumbent on the judge to engage with the question of the nature of the mechanisms in the receiving state that would minimise the risk of suicide, and, the judge failed to do so
 - (iv) the judge declined to apply Paposhvili v Belgium No 41738/10 which was an error.

Conclusions

4. At the hearing before me Mr Walker conceded that the judge had indeed taken into account the FRS Scheme when this applied to deportees only; this was an error of law. The AVRIM programme appeared, on the evidence before the judge, to be confined to assistance returning to the home town without more.
5. As Mr Lee indicated at the hearing, the appellant had been sectioned and suffered with severe mental health difficulties. In fact the judge does not make clear findings as to what he/she accepts with regards the mental health difficulties, but, against the evidence as set out in the decision, paragraphs [33] - [50], the judge does indeed take into account, when considering very significant obstacles to return with reference to Article 8, (and Article 3), the Facilitated Return Scheme which did not apply to the appellant.
6. The judge made no findings with regard the evidence identified at pages 37 to 64 of the ‘Sent “Home” with Nothing’ Report. If the findings regarding the family were sound that might not be a material error but the findings in respect of the appellant’s family are inadequate bearing in mind the context of the appellant’s mental health and vulnerability. The judge did not accept that the appellant would be without family support in Jamaica but his findings to that end are limited to paragraph [62] where he stated

‘I did not accept that the Appellant will be without family support in Jamaica. She said in her A1 that she was in contact with her

youngest brother (now aged 19) by WhatsApp. She has a further two brothers in Jamaica, concerning whom she makes no allegations of sexual abuse against her. I find, therefore, that she has family members in Jamaica and did not accept that they would refuse to help her. Indeed, if (sic) she gave no evidence to the effect that she had asked for their help if returned and that they had refused'.

7. The judge does not explain why he asserts that he did not accept that they would refuse to help her. Indeed although the appellant is said to be treated as a vulnerable witness [61], it is nonetheless held against her that *'she gave no evidence to the effect that she had asked for their help'*.
8. As such I find material errors of law with regards grounds (i) and (ii). It is not necessary to proceed to analyse grounds (iii) and (iv) and certainly (iv) would depend on adequate and relevant findings.
9. The Judge erred materially for the reasons identified. I set aside the decision pursuant to Section 12(2)(a) of the Tribunals Courts and Enforcement Act 2007 (TCE 2007). I considered retaining this matter in the Upper Tribunal but bearing in mind the nature and extent of the findings to be made the matter should be remitted to the First-tier Tribunal under section 12(2) (b) (i) of the TCE 2007 and further to 7.2 (b) of the Presidential Practice Statement.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Helen Rimington

Date 24th May 2018

Upper Tribunal Judge Rimington

