



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

Appeal Number: PA/06016/2019

**THE IMMIGRATION ACTS**

**Heard Remotely by Skype at Field  
House  
On 8 January 2021**

**Decision & Reasons Promulgated  
On 16 February 2021**

**Before**

**UPPER TRIBUNAL JUDGE RIMINGTON**

**Between**

**CLAUDIA JUANITA REID  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Khan, Nationwide Law Associates

For the Respondent: Mr C Avery, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Jamaica born on 1<sup>st</sup> December 1974. She appeals, with permission, against the decision of First-tier Tribunal dated 10<sup>th</sup> January 2020 which dismissed her asylum, humanitarian protection and human rights appeal under the European Convention on Human Rights. The appellant had appealed against the Secretary of State's decision dated 12<sup>th</sup> June 2019 refusing the appellant's claim on the same matters.

2. Permission to appeal was granted by Upper Tribunal Judge Owens on the basis that it was arguable that First-tier Tribunal Thew erred in finding that the appellant delayed claiming asylum for three years and that the appellant's evidence was that she became fearful after July 2017 when her son's neighbour's mother was killed. Threats were made against her by her neighbour and a member of her own family was also murdered. It was suggested that the delay was arguably much shorter than three years.
3. Permission was also granted on the basis that the judge failed to give adequate reasons for rejecting the evidence of the appellant's son's lawyer that there was an ongoing family feud, that the appellant's son's family had received numerous threats and one family member had been killed thereby linking the appellant to the accusations against her son.
4. The grounds as set out were as follows:

#### Ground 1

The judge failed to consider that the interviewing officer should have asked the appellant the relevant questions to clarify the relevant and important matters.

#### Ground 2

The judge stated there was a lack of credible evidence making any connecting links between the situation of the appellant's son and that of the appellant, but this showed that the judge failed to consider the evidence before him, and the appellant provided a letter from solicitors in Jamaica which clearly clarified the link. Although the advocate's letter did not name the person for whose murder the appellant's son had been charged, nevertheless the language of the appellant's advocate letter made it clear that the advocate was talking about the murder of Jacqueline Bowen.

#### Ground 3

The news article confirmed that the attack was linked to a gang feud and the advocate also stated the same thing, that is the matter was linked to an ongoing family feud. The advocate corroborated what the appellant stated that her life was in danger and that members of her family had received numerous threats and one met her death. It was clear the advocate was talking about the murder of Jody Ann Reid (a relative) . The judge clearly disregarded the appellant's statement with regard to the murder of Jody Ann Reid without giving any proper consideration.

The newspaper report dated 7<sup>th</sup> September 2018 confirmed the fact that the advocate's letter stated that the case against the appellant's son was out of malice and that people behind the murder of Jacqueline Bowen were named by the police as Dominic Campbell and Owen Jenkin.

The judge asserted that the failure to make the asylum claim at an earlier opportunity damaged the appellant's credibility under Section 8, but the judge failed to understand that the threats she received to her life started after the murder of Jacqueline Bowen when her son was charged with her murder and the incident with regards to the death of Miss Bowen was in July 2017. Less than six months after she received that information that her life was in danger, she claimed asylum.

#### Ground 4

In relation to Article 8 the judge made an error of law with regards to the assessment of Article 8. The appellant had been living in the UK for more than nineteen years and had clearly developed private life. She had no social, cultural or family ties in Jamaica, all her family had moved to America and her cultural and social ties were in the UK.

In relation to Article 3 the judge had also made an error. The appellant suffered with many illnesses and in particular a life-threatening illness called Lupus. She had been treated for her illness for a number of years and if removed from Jamaica she would face an early death as there was a lack of proper treatment at a right time for Lupus which was life-threatening.

#### **Submissions**

5. In his oral submissions Mr Mahmood relied on the written submissions but stated the judge had erred in considering that there was a delay in filing the asylum claim. The appellant had received threats in July 2017 and had tried to make arrangements to obtain documents thereafter. It was the death of Miss Bowen which was the trigger to the events. There was the death in 2009 of her brother but there is no evidence to point the finger at either side albeit that there was a suspicion that the brother had been murdered by the neighbour. There was then the incident in relation to the bike damage which the son asserted was the neighbour Blake and there followed the conflict in the shop whereby a young boy was shot. Thereafter there were some incidents, but it was the incident where Blake's mother, Jacquelin Bowen, had died that was blamed on the appellant's son and the police arrested the son. It was then asserted that Blake had murdered the stepmother of the appellant's daughter as revenge and threatened to kill the appellant in July 2017.
6. Mr Mahmood referred me to the letter from the lawyers dated July 2020 which he had subsequently forwarded to the Tribunal to remedy the omission in the evidence that the judge found there was no link between the appellant, the case of the death of Jacqueline Bowen and the news article. It was the appellant's case that there was a clear link and the subsequent letter provided and it should be accepted because it was relevant.

7. It was also submitted that it was the role of the interviewing officer during the asylum interview was to make clear the questioning and the interview was distorted. The judge had erred in law in finding that the witness statement which had been prepared by the solicitors who had taken the client through the background of the incident, was made up. The asylum interview had not tried to clarify the issues and the judge's approach to the interview was not reasonable and unfair on the appellant when the purpose of having a hearing was to clarify those issues.
8. The approach to Article 8 was wrong because the appellant had been in the country for twenty years and she had had no contact with her home.
9. Mr Khan also conceded that, despite the grounds of appeal in relation to Article 3 to the Upper Tribunal, he had formerly probably conceded before the First-tier Tribunal that no reliance was to be placed on Article 3.
10. Mr Avery submitted that the issue of why the appellant did not seek asylum earlier was dealt with comprehensively at paragraph 32 of the determination and the evidence in relation to the circumstances in Jamaica deteriorated according to the appellant's claim from 2014 onwards. It was now argued that the shooting of Jacqueline Bowen in 2017 had caused the situation to deteriorate further but the judge was entitled to state at the time that it deteriorated prior to that.
11. The letter from the attorney as supporting evidence was dealt with at paragraph 23 of the judge's decision and the judge's reasoning was adequate. The judge had read the letter from the attorney and found there was nothing to link the incident as reported in the article with the appellant.
12. This was simply a disagreement and in the overall assessment of credibility, the judge was entitled to find the appellant's account had the hallmarks of something which had been embellished. It was clear from what the judge had stated that the appellant's narrative was confusing. The observations were open to the judge and simply the appellant's account was not reliable and not borne out by the evidence.
13. The judge had dealt adequately with Article 8. The Appellant's private life had been formed when here status was unlawful and looking at the claim through the lens of Section 117 of the Nationality, Immigration and Asylum Act and on the basis of the background circumstances, it could not be argued that immigration control should be outweighed in the proportionality balance.

## **Analysis**

14. The grounds asserted in particular that the appellant's evidence was that the trigger incident was that of Jacqueline Bowen's death, which occurred in July 2017, and after that date she became afraid and then claimed asylum on 15<sup>th</sup> January 2018.

15. The judge, however, made a careful analysis of all the evidence when reaching his/her conclusions and made a series of adverse credibility findings.
16. The judge observed in relation to the asylum interview that it was '*difficult to follow the connection between various sentences said by her*' [the appellant] during her interview '*and to identify to which incident she was relating*' during the questioning and it was noted '*there were a number of incidents seemingly rolled into a lengthy narrative*' and '*sometimes her lengthy answers appeared to relate to more than one incident/ occasion*' [10]. Clearly the judge did not find the interviewing officer was responsible for the lack of clarity in the interview.
17. The judge recorded [11] that when she left Jamaica there was a peaceful relationship with the neighbours and she then described the death of her brother in 2009 but it was hearsay that the neighbours (the Bowen family) were responsible. The judge noted at [12] that there was more clarity in the appellant's witness statement of December 2019. In that statement she stated that there were rumours that the neighbours (the Bowen family) killed her brother in 2009 and the had tension escalated between her family and the Bowen family. However, there was no further incident until 2014, and when asked in her interview when the next incident was, she described 'the one in the shop'. The judge found that it was put to her that the shooting of the little boy in the shop was a "very significant event". The appellant thought this occurred in 2014 [13].
18. As the judge recorded at the outset of the appeal her main argument was that her life would be at risk because of gang warfare. That had occurred prior to 2018. It is quite clear however that the judge found at [15] that in her appeal statement the appellant had stated that her "main problem started in October 2014 regarding her son's bike". Indeed that can be found at the fourth paragraph of the appellant's statement. Further, the judge was fully aware that the appellant was residing in the United Kingdom illegally at the time when her main problem started in October 2014. In other words she would have been prompted to claim asylum then.
19. It was open to the judge to find that the appellant had "developed" her evidence not least at paragraph 18 the judge found that "*The whole incident is related in a confusing manner in interview*" and the judge states "*Although I entirely accept what Mr Mahmood says about the onus being upon the interviewer to clarify details which are not clear, it is for the appellant to set out her own claim.*" That is correct. The judge made specific criticisms of the appellant's evidence not least that she had made no mention in her interview that her daughter had gone to the police and given a statement [18] and this detail only arose after the refusal letter. The judge also gave sound reasons for rejecting her explanation as to why she persistently referred to the boy who was shot as a little boy when at the time he was 18 or 20 and nor could she give details as to the time in relation to the shooting of the boy - '*she now says specifically in October 2014 albeit she was unable to give any month to the incident , stating at*

*her interview that it was around 2015*'. The judge also found as her appeal developed, she was able to identify more precisely when this occurred. The appellant in relation to this referred to a newspaper report but there was no newspaper report produced [18]. Nor had the appellant produced evidence from her family members who were there [18].

20. A further incident occurred not '*six months later*' when a shooting of one Steven Blake occurred and someone was badly injured and the appellant's son was blamed and, then, a year later another incident occurred, and a cousin of the said Blake was said to have been murdered. That murder she said was blamed on her son. The judge recorded at paragraph 19, that the appellant "*said that as a result of this a serious gang war broke out*" and "*a lot of people started to move out of the area as it was not safe.*" The timeline from her statement is that this took place at the latest in 2016.
21. The judge then recorded that there were yet two further incidents with shooting of Jacqueline Bowen the mother of Steven Blake in July 2017 for which her son Renoy Reid was arrested and then the murder of Jody Reid (her daughter's stepmother) murdered by Steven Blake in revenge. Her daughter's stepmother Jody Reid went to the local shop and was shot when coming back. The appellant asserted this was simply because she was the appellant's daughter's stepmother [20] and [21].
22. Critical to this incident is the media report that the appellant provided dated 4<sup>th</sup> July 2017 headed "Bus Shot at Funeral: Woman Killed" and this reports the death of a female passenger the deceased being one Jacqueline Bowen and related to a gang feud. In conjunction with this was an attorney's letter dated 5<sup>th</sup> February 2018 in which the attorney confirms that he acts for Renoy Reid in two criminal matters.
23. The judge at paragraph 24 makes various points about these two documents. First, in relation to the media account the appellant did not know the surname at interview of the woman Jacqueline Bowen said to have been killed and nor was she sure how old the woman was, and her account appeared to depend on a telephone conversation and "*The only evidence aside from her assertions and suggestions about what happened (as the judge found) is that contained in the newspaper report and in the solicitor's letters*".
24. Further, the media report provided by the appellant with her appeal notice dated 7<sup>th</sup> September 2018 identified that the two men named as wanted for the murder were other than her son Renoy Reid who said to be sought for the murder of Jacqueline Bowen. The two people were unconnected to the appellant. Thus the media report dated 7<sup>th</sup> September 2018 did not reflect the appellant's account in relation to the July 2017 incident. Simply her son was not named in the report.
25. The judge also found that the advocate's letter of 5<sup>th</sup> February 2018 predated the newspaper report and in cross-examination, the appellant

accepted that the letter did not identify the victim or victims that Renoy Reid was said to have killed. Contrary to the grounds of appeal, this does not support the appellant's account in the manner claimed. It is also relevant that whoever the victim or family is referred to in the letter dates, the two matters are said to be connected in that they relate to the 'same individual and or his family' but crucially one matter evidently dates from 2016. The letter was thus defective in whom it identified but also defective in terms of the dates given.

26. The judge found at [25] that this letter did not identify the person or persons whom Renoy Reid is said to have killed (thus not supporting the appellant's timeline of an incident in July 2017) or a connection with the death of Jacqueline Bowen and secondly the letter from the advocate predated in February 2018 the media report. Since that time, the judge found the appellant had provided no up-to-date information as to the legal situation in Jamaica and it was not credible that she would not have been able to obtain further information about whether her son was still facing charges and thus details of those charges. The judge found against her on the basis of her lack of effort to clarify all of this which affected the credibility of her claim.
27. At paragraph 29 the judge also observed that the appellant had not obtained further information from her family members and found that this absence damaged her credibility as did the examples given that the appellant had effectively "developed" her story since the interview. For example when she was asked who shot the "little boy during the incident over the bike" in interview she said she did not know.
28. Albeit corroboration is not expected in asylum appeals, where that evidence can be reasonably obtained, and it has not been, that may weigh against an appellant's credibility and that is the position here. It was open to the judge to find that the only extraneous evidence, save for the appellant's rather confused assertions, was based on that contained in the newspaper report and the advocate's letter which were found to detract rather than assist the claim. That as the judge cogently found damaged the appellant's credibility [32].
29. At the hearing before me Mr Mahmood attempted to introduce a further letter dated July 2020 in which the advocate identified Blake's mother, but this evidence was not before the judge and in my view does not assist the appellant in any event against the backdrop of the findings by the judge which were comprehensive. There is no doubt that the further advocate's could have reasonably been provided to the First-tier Tribunal and it was not. Belated production does not assist particularly in the light of the various findings made by the judge.
30. In relation to the delay of asylum claim, as the judge found at paragraph 32 the appellant claimed that in 2014 or 2015 the problems became very serious with the neighbours albeit she made no claim for the asylum until 15<sup>th</sup> January 2018. She was asked in interview why she had not claimed

asylum at the time when she found out her life was being threatened in Jamaica and she in fact stated that when she found out her son was locked up that she was very stressed and just focusing on that. The judge considered that but weighing that against the lack of information about her son since the advocate's letter of 2018, found that her failure to make her claim at an early opportunity damaged her credibility. That finding was open to him.

31. The judge clearly at paragraph 33 stated that there was a lack of credible evidence to make any connecting link between her son's situation and the appellant herself and that she had not established that any of the other incidents recounted by her happened in the way she described and that there is with any link to her. It may have been that someone by the name of Jacqueline Bowen died having been shot but there was "*no established link between the event and the appellant*".
32. It was open to the judge to find that the appellant had belatedly provided a manufactured and embellished account in order to obtain leave to remain in the United Kingdom.
33. Dealing with the grounds directly, the judge found it was the lack of clarity from the appellant herself during her asylum interview rather than poor questioning which caused the confusion. The appellant clearly acknowledged the defects in the evidence by attempting to produce clarificatory letters after the promulgation of the decision. There was a multitude of credibility findings made against the appellant and in relation to the delay in claiming asylum the judge also noted at [32] that the appellant had made numerous applications on human rights grounds since her entry to the UK in September 2002, stated her problems became very serious in 2014/2015 but made no claim for asylum until January 2018. She was specifically asked why there was a delay and she stated that she was focussing on her son but as the judge recorded '*this reason does not hold water when taking into account the absence of any information about her son since the Advocate's letter of February 2018*'. That finding was open to the judge who approached the aspect of damage to credibility after having considered his other findings which significantly undermined her account.
34. As Mr Mahmood conceded, no Article 3 breach was relied on at the hearing and the judge cannot be criticised for any failure to consider that.
35. In relation to Article 8, contrary to Mr Mahmood's initial submissions, the appellant at the date of the hearing and decision in January 2020 had not resided in the United Kingdom for 20 years. Indeed there was no evidence that she had resided consistently in the United Kingdom since her entry in March 2001. The judge considered her claim through the lens of paragraph 276ADE finding that she had spent her first 27 years in Jamaica, spoke the language and had family there.



36. Her sister in the UK was not a British citizen but as the judge had already remarked, no member of family attended to give evidence on the appellants behalf and indeed she gave evidence that she did not see them very often and she had not spoken to her sister about the appeal. In sum, the judge did not accept that the only family member left in Jamaica was her son and that there may be hardship in her relocation after a lengthy period of time in the UK, but she showed herself as being able to adapt.
37. As Mr Avery submitted the medical evidence that was taken into account by the judge and that both the conditions from which the appellant suffered Lupus and high blood pressure were treatable in Jamaica. Those factors were taken into account and even so, when looking through the lens of Section 117B, the judge noted that little weight was given to her private life as it was formed when she was here without lawful leave except her initial period until 2002. The judge therefore unarguably considered the medical condition of the appellant, considered the policy of the Secretary of State as explained through the Immigration Rules and took into account the personal circumstances of the appellant when striking a fair balance between the public interest in maintaining fair immigration control, and an individual's right to private/family life. In effect the judge found that the decision was not disproportionate and, on the evidence, factored in by the judge the appellant had disclosed no unjustifiably harsh circumstances on her return to Jamaica.
38. As such I find the challenge to the decision of First-tier Tribunal Judge Thew, who considered the appeal comprehensively, is merely a disagreement with the judge's findings and sound conclusions. The decision of Judge Thew will stand.

No anonymity direction is made.

Signed Helen Rimington  
2021

Date 27<sup>th</sup> January

Upper Tribunal Judge Rimington