



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

Appeal Number: AA/04645/2010

THE IMMIGRATION ACTS

**Heard at Sheldon Court, Birmingham
On 11th June 2013**

**Determination Sent
On 17th June 2013**

Before

**Upper Tribunal Judge Southern
Deputy Upper Tribunal Judge French**

Between

CLW

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A. Pipe instructed by TRP solicitors
For the Respondent: Mr J. Singh, Home Office Presenting Officer

DETERMINATION AND REASONS

1. As it is common ground and agreed between the parties that this appeal to the Upper Tribunal is one that falls to be allowed, it is necessary for us only briefly to explain why we agree that the parties are correct to agree on that disposal.
2. The appellant, who is a citizen of Jamaica, was born on 9th January 1977. She arrived in the United Kingdom on 16th July 2001. Her immigration history and the history of proceedings that followed is well known to the parties and there is no need for us to set it out here. It is

sufficient for present purposes to record that a fresh asylum claim was accepted in 2009 and in March 2010 she and her son were granted indefinite leave to remain, although she was not recognised as a refugee. She appealed, as she was entitled to by virtue of section 83 of the Nationality, Immigration and Asylum Act 2002.

3. That appeal was dismissed by a judge of the First-tier Tribunal following a hearing on 7th June 2011. He accepted that the appellant had a well founded fear of persecution in her home area of Jamaica but dismissed her appeal on the basis that she could safely relocate elsewhere in Jamaica and so was not entitled to asylum. The appellant's appeal to the Upper Tribunal was dismissed by a Deputy Judge of the Upper Tribunal on the basis that the decision of the First-tier Tribunal judge disclosed no error of law.
4. That, however, is a view that has not been shared by the Court of Appeal and the determination of the Upper Tribunal has been set aside by an order of the Court of Appeal made with the consent of the parties on 16th January 2013. The parties agreed that the judge had erred in his approach to internal relocation by the appellant within Jamaica.
5. In short, the judge erred in leaving out of account certain considerations that would relate to the appellant whether she were living in her home area or in an area of relocation.
6. Given the need for a holistic approach to this assessment and to all the characteristics of this appellant, not least the fact that she has been living in the United Kingdom for nearly 12 years; that she is at risk from criminal gangsters in Jamaica but does not have the shield of the witness protection programme; that members of her immediate family have been killed already and, because of her mental health difficulties, lack of employment experience and illiteracy she would be at very real risk of experiencing destitution, it is not hard at all to see why, properly and realistically, Mr Singh concedes that it would be unduly harsh to expect this appellant now to relocate anywhere within her country of nationality.
7. We agree and find that to be the only rational conclusion on the particular facts of this appeal.
8. For those reasons it is plain that the appellant has established that she has a well founded fear of persecution such as to require her to be recognised as a refugee.
9. Thus, the appeal is to be granted refugee status.
10. We record also that the First-tier Tribunal made an order for anonymity and that shall be continued.

Summary of decision:

11. The First-tier Tribunal Judge made an error of law and his determination, promulgated following the hearing on 7th June 2011, shall be set aside.
12. We substitute a fresh decision to allow the appeal.

Signed

Upper Tribunal Judge Southern
11th June 2013