



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

Appeal ref: PA/14062/2018 (P)

THE IMMIGRATION ACTS

**Decided under rule 34**

**Decision & Reasons Promulgated:  
On 30 July 2020**

**Before**

**Upper Tribunal Judge Macleman**

**Between**

**JUNIOR ALEXANDER GAYLE**

Appellant

and

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

Respondent

**DETERMINATION AND REASONS (P)**

1. This determination is to be read with:
  - (i) The respondent's decision dated 6 November 2018.
  - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) The decision of FtT Judge Farmer, promulgated on 19 September 2019.
  - (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal filed on 17 February 2020; which include his assertion that he is a British citizen (and so not liable to deportation).
  - (v) The grant of permission by FtT Judge Holmes, dated 11 March 2020.

- (vi) The UT's note and directions, dated 30 March and issued on 28 April 2020, with a view to deciding without a hearing whether the FtT erred in law and, if so, whether its decision should be set aside; and directing both parties to provide details of the appellant's claim to citizenship.
  - (vii) The appellant's application, dated 6 May 2020, for an extension of time of 2 months.
  - (viii) The UT's decision, declining to extend time, dated 21 May 2020.
  - (ix) The appellant's submissions, filed on 30 June 2020 (35 pages).
2. There is no response on file from the SSHD.
  3. The appellant submits that the UT should not decide the case without a hearing.
  4. Permission to appeal to the UT was granted on the view that it was arguably unfair for the FtT not to have adjourned, of its own accord, to ascertain whether the appellant is a British citizen; not on any other issue.
  5. The appellant in his grounds, in his application for extension of time, and in his submissions, raises many matters, including: unlawful detention; corruption and collusion with criminality in the Home Office; bias, corruption and institutional racism in the FtT; collusion of the FtT with the Home Office; negligence and corruption on the part of his former legal representatives; risk on return to Jamaica; and bias and corruption on my own part. The appellant makes no meaningful proposals to substantiate any of those extreme allegations. They are irrelevant to the one straightforward question properly raised by the grounds and the grant of permission: was it procedurally unfair, so as to amount to error on a point of law, for the FtT not to adjourn, for the purpose above?
  6. The appellant has had ample opportunity to produce anything which might show that he has suffered procedural unfairness.
  7. In all the circumstances, I am satisfied that the UT may now deal with this case fairly and justly, in terms of rules 2 and 34, by deciding the foregoing question without a hearing, based on all written materials before it.
  8. Procedural unfairness may arise either from matters which are before a tribunal at the time, or inadvertently, based on matters of which a tribunal, through no fault of its own, is unaware.
  9. The appellant has not explained why he failed to appear before the FtT to advance his case.
  10. The materials on the file do not include anything which was before the FtT at the time of such strength that it should, of its own motion, have adjourned to explore whether the appellant is a British citizen. There was

no more than a vague assertion of an outstanding application to the respondent.

11. The appellant says that he has British citizenship, which the respondent has recognised; but if so, that could easily be demonstrated by producing the relevant document. To date, he has provided no evidence to establish either citizenship or recognition. There is therefore nothing to show that unfairness may have arisen, even based on materials not known to the FtT at the time.
12. It remains *possible*, although there is not much to demonstrate it at the moment, that the appellant is legally a citizen; but any remedy rests in other proceedings. It is not a possibility which shows any error by the FtT on the case which was put before it.
13. The decision of the First-tier Tribunal shall stand.
14. No anonymity direction has been requested or made.
15. The date of this determination is to be taken as the date it is issued to parties.

Hugh Macleman

UT Judge Macleman

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#### NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.

