



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

Appeal Number: AA 00944 2014

THE IMMIGRATION ACTS

Heard at Field House

On 9 May 2014

Determination

Promulgated

On 26 June 2014

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

DELVALEE SHELLET-ANN WILLIE

Respondent

Representation:

For the Appellant: Mr S Whitwell, Senior Home Office Presenting Officer

For the Respondent: The respondent appeared in person


RULING AND NOTE ON JURISDICTION

1. This case comes before me as an appeal by the Secretary of State against a decision by the First-tier Tribunal allowing the respondent's appeal against the decision to refuse her asylum. I put it that way quite deliberately and so doing should immediately alert any person aware of the procedures of this Tribunal to the possibility that an error has occurred. It is well-known, or should be well-known, that refusal of asylum is not itself an appealable decision, although entitlement to asylum is very often raised as a ground of appeal against a decision to remove.
2. I was anxious to find from the papers precisely what immigration decision was the subject of an appeal before me. The only immigration decision I could find on the papers that was relevant was a decision made on 8 November 2013. It is described as a removal decision but it asserts unequivocally that the applicant is only able to appeal after removal. It says:

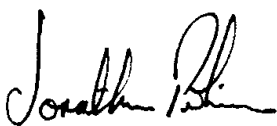
“You cannot appeal while you are in the United Kingdom because a certificate has been issued under Section 94 of the 2002 Act (as amended). A notice of appeal is enclosed which explains what to do and an Immigration and Asylum Chamber leaflet which explains how to get help.”

3. The letter was accompanied by a Reasons for Refusal Letter of the same date and that letter made it equally plain that the decision was not appealable while the claimant was in the United Kingdom.
4. It is therefore something of a mystery to me to know how it came about that the appeal was heard and determined by a First-tier Tribunal Judge who had the assistance of Counsel. The First-tier Tribunal Judge purported to allow the appeal that he thought was in front of him.
5. I have gone through the papers with the assistance of Mr Whitwell for the Secretary of State and indeed the assistance of the respondent, who is an educated woman who conducted herself with dignity before me, to see if there is any sensible possibility of the papers before me having being overtaken by a subsequent appealable decision. We could find nothing that suggests that that has happened nor is there any particular reason to think that a likely scenario.
6. It follows therefore that the First-tier Tribunal had no jurisdiction to entertain this appeal and the most that I can do, and do do, is to rule that the decision of the First-tier Tribunal Judge had no legal effect because it had no jurisdiction to entertain an appeal. I explained this to the respondent and strongly suggested that she takes independent legal advice as a matter of urgency.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 25 June 2014



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