



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

Appeal Numbers: DA/00097/2014

THE IMMIGRATION ACTS

Heard at Birmingham

On 7 July 2014

Determination

Promulgated

On 9 July 2014

Before

UPPER TRIBUNAL JUDGE PITT

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

DELROY CHRISTIE

Respondents

Representation:

For the Appellant: Mr Mills, Senior Home Office Presenting Officer

For the Respondents: Mr Ali, instructed by Syeds Lawcare Solicitors

DETERMINATION AND REASONS

The Appeal

1. This is an appeal by the Secretary of State against a determination promulgated on 7 April 2014 of First-tier Tribunal Judge Landes and Mrs R M Bray JP which allowed the respondent's appeal against deportation.
2. For the purposes of this determination, I refer to Mr Christie as the appellant and to the Secretary of State as the respondent, reflecting their positions as they were before the First-tier Tribunal.

3. The challenge to the decision of the First-tier Tribunal was that it:
 - a. sought to mitigate or otherwise improperly weighed the appellant's offences
 - b. failed to show how the circumstances of the appellant were exceptional so as to outweigh the public interest in deportation, undue weight being given to the best interests of the children and health of the appellant's wife.
4. With respect to those acting for the Secretary of State in this matter, the challenges brought appeared to me to amount only to disagreement rather than identifying anything that might amount to an error of law, notwithstanding the complexity of the law and legal principles concerning in deportation cases.
5. The panel stated in terms at [40] that the appellant's offence was "particularly serious" as it concerned drugs. They go on to state in the same paragraph:

"It remains a serious offence even though the sentence the appellant received was relatively low."
6. It did not appear to me that the panel could possibly be said to have erred in law to the extent that their decision should be set aside given those clear statements. I did not read the reference to a "relatively low" statement as "mitigation" or reduction of the weight to be placed on the offence or the weight to be placed in the public interest. It is merely an accurate reference to the length of sentence when considered against the full range of sentences available for such offences.
7. The respondent maintains that the panel minimise the offence in their discussion at [16] to [21]. I could not see how that could be so. They correctly address at the outset of their consideration the nature and seriousness of the offence. They were entitled to have regard at [17] to the remarks of the sentencing judge. The findings at [18] to [21] go against the appellant as regards his reasons for having committed the offence.
8. As regards the second ground, the panel clearly had in mind the correct case law and importance of the public interest in the deportation of foreign national criminals and the "exceptionality" or "very strong" grounds that must pertain for such an appeal to be allowed; see [12], [13], [38] and [39]. They refer in terms to MF (Nigeria) v SSHD [2013] EWCA Civ 1192 and SS (Nigeria) v SSHD [2013] EWCA Civ 550. Nothing in the determination suggests that they did not apply the high test for a deportation appeal to be allowed in their substantive consideration.
9. The question of how much weight was to be afforded to the best interests of the children and the health difficulties of the appellant's wife were matters for the panel. The consideration of those matters at [19], [27] to

[30], [33], [40] and [41] was thorough and careful. The panel took into account at [28] the lack of medical evidence about the appellant's wife. It indicates at [40] that the findings that it made on the wife's health were limited and not as high as put in the appellant's evidence. There was some evidence, however, some of which was corroborated by third parties; see [29], [40] and [41]. Having assessed the evidence about the appellant's wife carefully and declined to take it at its highest, it was open to the panel to conclude at [29], [30] and [40] that the wife had difficulty in looking after the children on her own when the appellant was in prison and that the family would "struggle" if the appellant was deported.

10. In short, there were manifestly matters here capable of leading the First-tier Tribunal to find that this was "a very strong case indeed" and they provided cogent reasons for their conclusion that the appeal should be allowed.

Decision

17. The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: 
Upper Tribunal Judge Pitt

Date: 7 July 2014