



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

Appeal Number: IA/47724/2013  
IA/47726/2013

**THE IMMIGRATION ACTS**

**Heard at Manchester**

**Determination**

**On 30<sup>th</sup> July 2014**

**Promulgated**

**On 17<sup>th</sup> October 2014**

**Before  
DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

**Between**

**MM & KS  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Brown, Counsel instructed by Curtis Law Solicitors  
For the Respondent: Ms Johnson, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The first appellant is a citizen of Jamaica and is the mother of the second appellant, who is a minor and a citizen of Jamaica. As these proceedings directly concern the interests and welfare of a child, I consider it necessary to make an anonymity direction.
2. This is an appeal by the appellants against the determination of First-tier Tribunal Judge A S Simpson promulgated on 7<sup>th</sup> May 2014. The judge dismissed the appeal of the appellants against the decisions of the respondent dated 2 October 2013 to remove each of them from the United Kingdom.
3. By decision of the 9<sup>th</sup> June 2014 First -tier Tribunal Judge Kinnell granted permission to appeal. In granting permission to appeal the Judge Kinnell gave permission in the following terms:-

2 It is arguable that the First Tier Tribunal Judge, though dealing with the issues of education, health, and societal attitudes in Jamaica, did not engage with the report from a Social Worker regarding the impact of removal on the second appellant's emotional and behavioural well-being. The report strongly states that the interests of the second appellant, a child, are paramount. They are not. As the Judge correctly recorded, they are a primary consideration. But there were passages in the report concerning, for example, strong ties with a family network in the UK which have not been taken into account when assessing proportionality.

4. The first appellant entered the United Kingdom in March 2000 on a visit visa with leave valid until September 2000. In April 2000 the first appellant claimed asylum. This claim was refused. Her appeal against the consequent immigration decision was dismissed on 29 April 2002. The first appellant did not leave the United Kingdom.
5. It appears that the first appellant for a period of time was living with her sister. It is to be noted however that the appellant appears to have a mother and sister in Jamaica and that she also has a brother, although she states that she is not in contact with that brother.
6. Within the independent social worker's report there is reference to the fact that the appellant initially lived in London. It then notes that she had a period of imprisonment in 2001 for 12 months for possession of cocaine. That is her only criminal offence. It is suggested that on release from prison the first appellant came to live in Manchester. There is then reference to the fact that the appellant came to Manchester and began to live with her sister in 2010. The problem with regard to that is that there appears to be a gap from about 2002 to 2010 for which the circumstances of the first appellant are largely unexplained. There is no explanation as to who the appellant was living with during that period of time in Manchester.
7. In 2006 the first appellant gave birth to the second appellant. The Independent Social Workers report states that the first appellant was in a relationship that lasted about a year but which ended following the birth of the second appellant. It appears that the father of the second appellant was already married.
8. In the report there are specific date is given for the appellant coming to live in Manchester there is a specific year given for her commencing to live with her sister, 2010. In paragraph 1.8 of that report there is reference to the fact that the first and second appellant are now living in a quiet suburb of Manchester with family members in close proximity.
9. The judge has specifically considered what family members the appellants have in the United Kingdom. Within paragraph 16 of the determination it is noted that the family members include the sister, the sister's children and some cousins. The judge has also specifically considered the significance of those family relationships and the impact upon the appellants of removal from the United Kingdom in paragraph 18 of the determination.

10. In coming to a decision in this case the judge has approached the issues raised by the appellants dealing with each in turn. The judge has specifically considered the prospects for the appellants on being returned to Jamaica. The judge has specifically considered the educational needs of the child and was satisfied in paragraph 29 of the determination that the second appellant's education could continue in Jamaica. The judge has gone on to consider in paragraph 30 the medical condition of the child. In considering the medical condition the judge has given valid reasons for concluding that there was no medical treatment immediately needed in respect of the second appellant as her umbilical hernia had been repaired and dealt with. No other medical problems had been identified.
11. With regard to family relationships the judge has specifically considered in paragraph 30 that the second appellant is still very young and whilst there is some family life in the United Kingdom she notes that that is based on her relationship with the aunt and cousins. The primary relationship of the second appellant has with her mother the first appellant. It is clear therefore that the judge has in fact taken into account the position of the relationship of the appellants in the United Kingdom with her aunt and cousins as is evident from paragraph 30.
12. The judge has clearly gone on to consider otherwise the circumstances that would face the appellants were they to be returned to Jamaica.
13. The judge has probably considered the family ties. The judge was well aware of the same and has taken them into account in coming to the conclusion that she did. The judge was entitled to conclude that as the first appellant was to be removed from the United Kingdom it was clear that the best interests of the child were to be with her mother. As the mother had remained here illegally since 2001 despite having her appeal dismissed, the judge was satisfied that, as the mother was to be removed from the United Kingdom, the best interests of the child were to go with the mother. The judge has probably considered all of the evidence and has taken account of the relationship that the appellant has in the United Kingdom with family members.
14. On the basis of the evidence presented the judge was entitled to come to the conclusion that she did. There is no error of law in the determination. The decision to dismiss this appeal on all grounds stands.

Signed  
Deputy Upper Tribunal Judge McClure

Dated

Direction regarding anonymity-

Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify the appellant or any member of the appellant's family. This direction applies both to the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings

Signed

Dated

Deputy Upper Tribunal Judge McClure.