



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

Appeal Number: AA/03759/2015

THE IMMIGRATION ACTS

**Heard at Glasgow
on 21 December 2015**

**Determination issued
On 04 January 2016**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

JIEDI YANG

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A Caskie, Advocate, instructed by Maguire Solicitors (Scotland) Ltd

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, a citizen of China born on 17 February 1973, appeals against a determination by First-tier Tribunal Judge Fox, promulgated on 23 September 2015.
2. There were two aspects to the appellant's case. Firstly, she said that in China she would be at risk of further violence from her husband. The issues on that protection claim appear to have been whether it was defeated in all or any of three ways: lack of credibility, sufficiency of protection, and internal relocation.
3. Secondly, the appellant sought to remain here on the basis of her family life with Mr David Foreman, a UK citizen. He has a son and a daughter, aged 26 and 28 at the time of the respondent's decision. She appears to have a minor child and other relatives in China. She did not argue that

this part of her case could succeed within the immigration rules. It was based only on article 8 of the ECHR, outside the rules.

4. The grounds of appeal identify several errors, inconsistencies and deficiencies in the determination. The first important self-contradiction is over whether or not the appellant was the victim of domestic violence, which is both rejected and accepted at different points. Some of the further deficiencies are of no real importance to the outcome, and others are of a proof-reading nature which might be safely be read as if corrected; but the respondent accepted that cumulatively there are errors such that the determination could not stand as a legally adequate explanation of why the appeal failed.
5. The determination of the First-tier Tribunal is **set aside**, with no findings preserved. Under section 12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to remit the case to the First-tier Tribunal. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge Fox.
6. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

21 December 2015
Upper Tribunal Judge Macleman