



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

Appeal Number: IA/00022/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 20 January 2016**

**Decision and Reasons
Promulgated
On 27 January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE MURRAY

Between

**S A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ikeh, Moorehouse, Solicitors, London

For the Respondent: Mr Avery, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a citizen of Portugal born on 19 July 1983. She appealed against the decision of the Respondent dated 13 December 2014 to remove her from the United Kingdom due to abuse of her rights under Regulation 21B(2) of the Immigration (EEA) Regulations 2006 (as amended). The appeal was heard by Judge of the First Tier Tribunal James on 13 July 2015 and dismissed, in a decision promulgated on 24 July 2015.

2. An application for permission to appeal was lodged and permission was granted by Judge of the First Tier Tribunal Foudy on 12 November 2015. The grounds argue that the Judge erred in failing to consider evidence that was submitted by the Appellant. The grounds state that a bundle of documents was submitted within the terms of the direction, which stated that any further evidence had to be submitted by 14 July 2015 but this bundle of evidence had not been put before the Judge when he made his decision. The permission states that this amounts to possible procedural unfairness although the Judge was unaware of this.

The Hearing

3. The decision was dealt with on the papers. It is dated 14 July 2015 although it was not promulgated until 24 July 2015.
4. The direction to the Appellant stated that written evidence and submissions must be made to the Tribunal and the Respondent by 14 July 2015. There was no bundle from the Appellant before the First Tier Judge.
5. The Appellant's representative submitted that the Appellant's bundle was sent by fax on 14 July 2015. Although it was received by the Respondent it was not on the file when the First Tier Judge made his decision. He submitted that this resulted in procedural unfairness.
6. The Home Office Presenting Officer submitted that when the Appellant's bundle is considered it is clear that it was served on 14 July 2015. It is also clear that it was not before the Judge when he made his decision.
7. I find that there has been procedural unfairness in the way this appeal has been dealt with.
8. I find that this amounts to a material error of law.
9. I direct that the decision on this appeal is overturned and the appeal is remitted to the First Tier Tribunal for a fresh hearing on all issues.
10. Anonymity has been directed.

Signed

Date

Deputy Upper Tribunal Judge I A M Murray
Judge of the Upper Tribunal