



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

Appeal Number: UI-2022-001229
on appeal from HU/08020/2020

THE IMMIGRATION ACTS

**Heard at Field House
On 1 September 2022**

**Decision & Reasons Promulgated
On 6 October 2022**

Before

**UPPER TRIBUNAL JUDGE GLEESON
DEPUTY UPPER TRIBUNAL JUDGE WILDING**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

**LENOY CASAVE MUNEZ
[NO ANONYMITY ORDER]**

Respondent

Representation:

For the appellant: Mr Steven Walker, a Senior Home Office Presenting Officer
For the respondent: Mr Mohammed Moksud of Counsel, instructed by Chris & Co Solicitors

DECISION AND REASONS

1. The Secretary of State appeals with permission from the decision of the First-tier Tribunal allowing the claimant's appeal against her decision on 8 October 2020 to deport him as a foreign criminal by reference to sections 32(5) and 33 of the UK Borders Act 2007, and on 9 October 2020 to refuse him leave to remain on human rights grounds. The claimant is a citizen of Jamaica.

2. **Mode of hearing.** The hearing today took place face to face.

Background

3. The claimant came to the UK in November 2001 aged 20 months. He is now 22 years old. The claimant's mother and father split up in 2002, but his father remained in contact until 2008.
4. In 2008, the claimant's mother was convicted of a drugs offence and imprisoned. The claimant's father dropped out of his life at about the same time, and the claimant lived with his eldest brother's girlfriend. Also in 2008, his mother claimed international protection with the claimant as her dependant: the Secretary of State refused the international protection claim but granted the family discretionary leave.
5. The claimant developed a disabling stutter and fell behind at school. His mother relocated from London to Leicester. The claimant began to get into trouble. His first conviction was on 30 September 2013. In 2014, difficulties began between the claimant and his mother. Children's Social Services became involved.
6. On 28 May 2016, the claimant's mother applied for further leave to remain, with the claimant as a dependant. The claimant was ejected from the family home that year by his mother.
7. The claimant has had four relationships with British citizen women, and claimed parentage of three children, two daughters and a son. Following a DNA test, it has been confirmed that the son born in 2019 is not the claimant's child. In 2020, his fourth partner was said to be pregnant also.
8. Over the period 2013-2019, the claimant was convicted on 11 occasions for 59 offences: three offences against the person, one property offence, 19 theft and similar offences, 5 offences relating to police, courts and prisons, one drug offence, one offence involving firearms/shotguns/offensive weapons, and 29 miscellaneous offences.
9. The final conviction, which is the index offence in these proceedings, was on 4 September 2019, concerning events on 17 October 2018, when he ordered takeaway food and tried to take it from the delivery person without paying. There was a serious altercation. The claimant took the food, and the money which the delivery person had on him. The sentencing judge recorded that the attack on the delivery person had lasting physical consequences, with pain continuing at the date of hearing .
10. The claimant was convicted at Leicester Crown Court of theft from a person and robbery, and sentenced to 27 months' imprisonment. On 8 October 2019, the claimant was served with notice of decision to deport him to Jamaica, and a section 120 notice. He made a human rights claim, based in part on a new relationship with a fourth British citizen woman who was said to be expecting his child in March 2020.

11. On 8 October 2020, the Secretary of State made a deportation order. On 9 October 2020, the Secretary of State refused the human rights application. The claimant had not provided any evidence to support the existence of his claimed children, his relationship with them, or their circumstances. For that reason, there was no evidence regarding the children's section 55 best interests.
12. The claimant appealed to the First-tier Tribunal.

First-tier Tribunal decision

13. The First-tier Judge considered the appeal by reference to sections 117C and 117D of the Nationality, Immigration and Asylum Act 2002 (as amended). The claimant had conceded in the hearing that he was not in contact with any of his children or former partners. The claimant's mother gave evidence on his behalf.
14. The judge found that the claimant could bring himself within Exception 1 in section 117C(4) and allowed the appeal.
15. The Secretary of State appealed to the Upper Tribunal.

Permission to appeal

16. The Secretary of State advanced two grounds of appeal: first, that the First-tier Judge's reasoning was inadequate to support his finding that the claimant was socially and culturally integrated in the UK, given his criminality and lack of any significant employment history here (see *Binbuga (Turkey) v Secretary of State for the Home Department* [2019] EWCA Civ 551 at [58]); and second, that the finding of very significant obstacles to integration in Jamaica on return was inadequately reasoned.
17. Permission to appeal was granted on all grounds.

Rule 24 Reply

18. There was no Rule 24 Reply on behalf of the claimant.
19. That is the basis on which this appeal came before the Upper Tribunal.

Upper Tribunal hearing

20. At today's hearing, Mr Walker for the Secretary of State acknowledged that on the facts, particularly given the length of the claimant's residence in the UK, it had been open to the First-tier Judge to find that he was socially and culturally integrated.
21. Mr Walker conceded that the Secretary of State's second ground was in reality no more than a disagreement with the First-tier Judge's findings of fact and credibility, and an attempt to reargue the 'very significant obstacles' finding, which is a question of fact for the fact-finding Tribunal.

22. Accordingly, the Secretary of State's appeal must fail.

DECISION

23. For the foregoing reasons, our decision is as follows:

The making of the previous decision involved the making of no error on a point of law

We do not set aside the decision but order that it shall stand.

Signed [Judith AJC Gleeson](#)
2022

Date: 1 September

Upper Tribunal Judge Gleeson