



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2022-003186**  
**First-tier Tribunal No:**  
**DA/00370/2020**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 16 May 2023**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

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

Appellant

**and**

**PAULINA KURSTAK**  
**(NO ANONYMITY ORDER MADE)**

Respondent

**Determined without a hearing at Field House on 30 March 2023**

**DECISION AND REASONS**

1. On 16 November 2022 I gave the following directions:-
  1. In a decision promulgated on 18 March 2022, the First-tier Tribunal allowed Ms Kurstak's appeal against a decision to deport her.
  2. In letter to Ms Kurstak dated 17 March 2022, the Secretary of State wrote that she would not seek to deport her, stating:

Careful consideration has now been given to your conduct, your personal circumstances, and the question of your liability to deportation. The representations you submitted on 13 September 2020, 05 October 2020, Grounds of Appeal dated 29 November 2020, Skeleton Argument dated 25 January 2022 and further evidence submitted on 09 February 2022 have also been considered. In light of the evidence available, it has been decided not to deport you from the United Kingdom (UK) on this occasion.
  3. Despite that, on 23 March 2022 the Secretary of State sought permission to appeal. Permission to appeal was granted on 30 May 2022.
  4. In the circumstances, it is my preliminary view that there is no merit in the grounds of appeal, and that permission to appeal would not have been

granted, had the judge been aware of the letter of 17 March 2022. It is also my preliminary view that the appeal should be dismissed without a hearing on the basis that the Secretary of State has effectively withdrawn her case in the letter of 17 March 2022.

5. Further, it is open to Ms Kurstak to make an application for costs against the Secretary of State, pursuant to rule 10(4) and (5) of the Tribunals Procedure (Upper Tribunal) Rules 2008.
  6. Accordingly, unless within **ten working days** of the issue of these directions there is any written objection to this course of action, supported by cogent argument, the Upper Tribunal will proceed to dismiss the appeal without an oral hearing on the basis set out above and uphold the decision of the First-tier Tribunal.
  7. In the absence of a timely response by a party, it will be presumed that it has no objection to the course of action proposed.
2. On 21 November 2022 the Secretary of State responded that she had no objection to the proposed course of action. There has, however, been no response from the Respondent. Given that the proposed course of action is not to her detriment, and the terms of my order, I am satisfied that neither party objects to the matter being determined without a hearing and has nothing further to say. I am satisfied that that the determination of the First-tier Tribunal did not involve the making of an error of law for the reasons set out above, and I therefore dismiss the appeal

### **Notice of Decision**

1. The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

Signed

Date 28 March 2023

Jeremy K H Rintoul

Upper Tribunal Judge Rintoul