



IN THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM CHAMBER

Case ref: HU/14736/2018

THE IMMIGRATION ACTS

Decision & Reasons Promulgated:  
**On 31 March 2023**

Before

Mr C M G OCKELTON, VICE PRESIDENT & UPPER TRIBUNAL JUDGE MACLEMAN

Between

**SEDIA DIBASSEY**  
(no anonymity order made)

Appellant

and

**SSHD**

Respondent

**Heard at Edinburgh on 7 February 2023**

*For the Appellant: Mr S Winter, Advocate, instructed by Maguire, Solicitors*  
*For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer*

**DECISION AND REASONS**

1. FtT Judge Green dismissed the appellant's appeal by a decision promulgated on 12 October 2018.
2. The FtT and the UT refused permission to appeal.
3. In the Court of Session, parties entered into a joint minute agreeing to reduction of the UT's refusal of permission, on the view that there had arguably been an error on the issue of removal not being required where it would not be reasonable to expect a child to leave the UK, by reference to section 117B(6) of the 2002 Act and the decision of the Court of Appeal in *AB (Jamaica)* [2019] EWCA Civ 661 (post-dating the tribunal proceedings).
4. On 14 October 2022, the UT granted permission.

5. The SSHD responded on 9 December 2022 to the grounds of appeal, accepting that there had been an error of approach to section 117B(6), by reference to *Runa* [2020] EWCA Civ 514.
6. A skeleton argument for the appellant, filed on 1 February 2023, restricts his grounds to this issue, and briefly submits that it would not be reasonable to expect the appellant's son to leave the UK. Mr Winter advised us that his instructions are that the appellant currently sees his son 3 times a week.
7. Mr Mullen submitted that the outcome should be a remit to the FtT.
8. Given the age of the child, the passage of time, and that there may be a developing relationship, we consider that a fairly extensive fact-finding exercise is likely to be required, which is apt to take place in the FtT.
9. The decision of Judge Green is set aside, error being conceded as above (although we note that has become apparent largely through development of the case law since his decision). His decision stands only as a record of what was said at the hearing. The case is remitted for a fresh hearing before another Judge.
10. No anonymity order has been requested or made.

Hugh Macleman

Judge of the Upper Tribunal, Immigration and Asylum Chamber  
7 February 2023