

SC (Jamaica) (Appellant) v Secretary of State for the Home Department (Respondent) [2022] UKSC 15 On appeal from: [2017] EWCA Civ 2112

Date: 15 June 2022

THE COURT ORDERED that no one shall publish or reveal the name or address of the Appellant who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of the Appellant or of any member of his family in connection with these proceedings.

Justices

Lord Reed (President), Lord Lloyd-Jones, Lady Arden, Lord Hamblen, Lord Stephens

Background to the Appeal

SC is a Jamaican national, born in 1991. He came to the UK in December 2001 and has lived here since then. SC's mother is a lesbian who was persecuted by gang members in Jamaica, at whose hands both SC and his mother suffered violence, harassment and assault. SC and his mother were granted indefinite leave to remain in the UK as refugees in October 2003. SC committed several criminal offences between 2005 and 2012. In June 2012, SC was convicted of assault causing actual bodily harm for which he was sentenced to two years in a young offender's institution. As a result, SC is a foreign criminal who qualifies for automatic deportation under the UK Borders Act 2007.

There is a real risk to SC of inhuman or degrading treatment, contrary to article 3 of the European Convention on Human Rights ("ECHR") in urban but not rural parts of Jamaica. So, SC's deportation to Jamaica by the Secretary of State for the Home Department ("SSHD") would be unlawful unless SC "can reasonably be expected to stay" in the rural areas of Jamaica. This is known as "internal relocation".

In allowing an appeal from a deportation order made by the SSHD, the First-tier Tribunal Judge held that SC could not reasonably be expected to stay in a rural part of Jamaica. The SSHD appealed unsuccessfully to the Upper Tribunal. The SSHD then appealed to the Court of Appeal, which set aside the decisions of both Tribunals, and remitted the determination of SC's appeal against the SSHD's deportation order to the First-tier Tribunal for a fresh hearing. SC sought permission to appeal to the Supreme Court, which was granted in May 2021.

The first issue is whether SC's criminal conduct is a factor relevant to determining if he could reasonably be expected to stay in a rural area of Jamaica, based on a value judgment of what is "due" to him as a criminal.

The second issue, which arises if SC's criminal conduct is not relevant to internal relocation, is whether the First-tier Tribunal Judge erred in holding that SC could not reasonably be expected to stay in a rural area of Jamaica.

The third issue is whether the First-tier Tribunal Judge erred in her assessment of sections 117C(4)(b)-(c) of the Nationality, Immigration and Asylum Act 2003 and para 399A(b)-(c) of the Immigration Rules in finding that SC is socially and culturally integrated in the UK and there would be very significant obstacles to his integration in Jamaica.

The fourth issue is whether the First-tier Tribunal Judge erred in law in embarking on a freestanding assessment of article 8 ECHR applying the wrong test and failing to give sufficient weight to the public interest in SC's deportation.

Judgment

The Supreme Court unanimously allows the appeal. Lord Stephens gives the judgment, with which Lord Reed, Lord Lloyd Jones, Lady Arden and Lord Hamblen agree.

Reasons for the Judgment

In respect of the first issue, the Court finds that the correct approach to the question of internal relocation is a holistic assessment involving specific reference to the individual's personal circumstances, including past persecution, psychological and health conditions, family and social situation and survival capacities. It should not take into account what is "due" to the person as a criminal [95-97]. The Court allows this ground of appeal.

In respect of the second issue, the Court finds that the First-tier Tribunal Judge did not err in holding that SC could not reasonably be expected to stay in a rural area of Jamaica, since this was the logical consequence of her findings, based on medical evidence, that SC was in need of long-term psychological treatment. The First-tier Tribunal Judge also relied on her findings that SC had no family or personal connections anywhere in Jamaica, and no familiarity with anywhere outside of Kingston [101]. The Court allows this ground of appeal.

In respect of the third issue, the Court finds that the First-tier Tribunal Judge did not err in relation to SC's social and cultural integration in the UK, as this is a fact-sensitive determination [106]. Furthermore, the First-tier Tribunal Judge did not err in relation to the "very significant obstacles" to SC's integration in Jamaica, having considered in "meticulous detail" SC's history of mental illness and trauma, and need for long-term psychological care [107]. The Court allows this ground of appeal.

In respect of the fourth issue, the Court finds no error of law by the First-tier Tribunal Judge on the basis that she is an "expert tribunal judge" who "in substance directed herself in accordance with the applicable statutory test" [112]. The Court allows this ground of appeal [114].

References in square brackets are to paragraphs in the judgment
