



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

Appeal Number: OA/04387/2013

THE IMMIGRATION ACTS

Heard at Field House

On 15th November 2013

**Determination
Promulgated**

On 4th December 2013

Before

UPPER TRIBUNAL JUDGE RENTON

Between

**NOREEN CAESAR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

IMMIGRATION OFFICER - GATWICK AIRPORT

Respondent

Representation:

For the Appellant: Unrepresented

For the Respondent: Mr G Saunders, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant is a female citizen of Dominica born on 3rd June 1962. She arrived at Gatwick Airport on 16th January 2013 when she was refused leave to enter as a visitor. It is not true to say, as stated elsewhere, that she arrived in possession of an entry clearance. The Appellant returned to Dominica and from there appealed the decision of the Immigration Officer. That appeal was heard by Judge of the First-tier Tribunal Thanki (the Judge) sitting at Hatton Cross on 12th August 2013. He decided to dismiss the appeal for the reasons given in his Determination dated 21st August

2013. The Appellant sought leave to appeal that decision, and on 8th October 2013 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Judge in dismissing the appeal considered only the Appellant's Article 8 ECHR rights. This was because the Appellant had the right of appeal only on, in this case, human rights grounds by operation of Section 89 Nationality, Immigration and Asylum Act 2002. The Judge dismissed the appeal because he found that the Appellant had no family or private life in the UK.
4. At the hearing, the Sponsor, the Appellant's daughter Shaminer Julien, appeared unrepresented. She indicated that she was happy for the appeal hearing to proceed, and argued that the Judge had erred in law. She referred to the grounds of application and said that the Judge should have considered whether the Appellant was a genuine visitor or not.
5. In response, Mr Saunders submitted that there was no such error of law. The only issue before the Judge was the Appellant's Article 8 rights, and he had dealt with those by way of a finding that the Appellant had no family or private life in the UK. This was a sustainable decision.
6. I found no error of law in the decision of the Judge so that it should be set aside. My reasons for that conclusion are as follows. As Mr Saunders argued, the only issue before the Judge was the Appellant's Article 8 rights. The Judge found that the Appellant had no family or private life in the UK for the reasons he gave at paragraph 15 of the Determination. That was a decision open to the judge on the evidence before him and which he adequately explained. As the Judge had found that the Appellant had no family or private life in the UK he was not obliged to consider proportionality.

Decision

7. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
8. I do not set aside the decision.

Anonymity

9. The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I also see no reason to do so.

Signed

Date

Upper Tribunal Judge Renton