



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

Appeal Numbers: AA/00882/2015
AA/00883/2015
AA/00884/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 30 September 2015**

**Decision & Reasons
Promulgated
On 2 October 2015**

Before

**THE HONOURABLE LORD BURNS
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
UPPER TRIBUNAL JUDGE McWILLIAM**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**FJ
AN
AJ**

Respondents

ANONYMITY

The First-Tier Tribunal made an Anonymity Order which continues. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original appellants. This prohibition applies to, amongst others, all parties.

Representation:

For the Appellant: Ms A Fijiwala, Home Office Presenting Officer

For the Respondents: Ms S Akinbolu, Counsel instructed by Wilson Solicitors
LLP

DECISION AND REASONS

1. We shall refer to the respondents as the appellants as they were before the First-Tier Tribunal. They are citizens of St. Vincent and the Grenadines. The first appellant (hereinafter "the appellant") was born on 4 September 1988. The two other appellants are her dependent children. Their respective dates of birth are 21 March 2010 and 7 September 2012. The appellant made an application for asylum which was refused by the Secretary of State on 8 January 2015. She appealed against that decision and her appeal was allowed by Judge of the First-tier Tribunal Moore, in a decision of 1 June 2015, following a hearing on 6 May 2015. The Secretary of State was granted permission to appeal by Judge of the First-tier Tribunal Grimmett on 19 June 2015.
2. The appellant came to the UK in July 2013, having been granted a visit visa. Her claim is that she is in fear of her husband and his family. It is accepted by the Secretary of State that the appellant was the victim of domestic violence inflicted by her husband. He now faces criminal charges of rape. It is accepted that the appellant is the victim of one of the allegations. It is accepted by the Secretary of State that the appellant received threatening messages from her husband's family who reside in St Vincent. The Secretary of State's position is that the appellant's husband is residing in the UK and she has no contact with him and thus she would not be at risk on return. In any event, it is the view of the Secretary of State, that there is sufficiency of protection and relocation is a viable option.
3. Permission was granted in relation to the first ground only. The issues raised therein can be summarised. It is asserted that the judge did not adequately explain how the husband's family would be aware of the appellant's return. It is asserted that the motivation of the husband's family is not material because the criminal charges against the husband are being brought in UK. It is asserted that the judge did not deal with sufficiency of protection. The appellant served a response under Rule 24 of the 2008 Procedure rules and we heard oral submissions.
4. Judge Moore found that the appellant was credible. The judge found at [34] that the appellant's husband and his family have the desire to exact retribution on the appellant noting the outstanding charges against him. The judge found that the threats made by his family were serious. The perpetrators are the appellant's husband and his family. We do not accept that if her husband remains in the UK (and is convicted and sentenced) and she returns to St Vincent this would materially reduce the risk. It is clear that the judge did not find that risk was dependent on the husband's presence in St Vincent. In any event, the appellant's evidence was that he regularly returns. Neither party updated us in relation to the criminal

proceedings, but it was not for the judge to speculate that there would be a conviction followed by lengthy custodial sentence.

5. The grounds assert that the judge failed to deal with the issue of sufficiency of protection. This is not correct. His findings and reasons are contained in [34] to [37]. Ms Fijiwala expanded on this. She argued that the judge failed to consider the background evidence cited in the decision letter. We do not accept this. The judge took into account the background evidence relied on by the Secretary of State. He made reference to the Human Rights Report of 2013 (see [36]) but he reached different conclusions to those reached by the decision maker. He also took into account the background evidence submitted by the appellant (see [36] and [37]). It is not suggested that the judge misunderstood or misapplied the background evidence. The appellant is the victim of serious domestic violence and is at risk of domestic violence on return. Whether it is perpetrated by her husband or his family is immaterial. The judge was correct to consider sufficiency of protection in the context of domestic violence and his decision is lawful and sustainable.
6. The judge considered relocation at [36] and [40]. He took into account the size of the island and the population. He found that there was no reason to doubt the appellant's evidence that her husband and family are well-known there. The judge found that as a single female with two children she would be easily located. At [36] the judge found that the perpetrators would become aware of the appellant's return within a reasonable period of her arrival there and relocation was not therefore safe option. His findings are grounded in the evidence and reasoned.
7. There is no properly identified error of law in the decision of Judge Moore and we dismiss the appeal of the Secretary of State.

Notice of Decision

The appeal of the Secretary of State is dismissed and the decision of the First-tier Tribunal is maintained.

Signed

Date

Upper Tribunal Judge McWilliam