



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/01973/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 20 March 2018

Promulgated

On 09 May 2018

Before

**THE HONOURABLE MR JUSTICE EDIS
UPPER TRIBUNAL JUDGE REEDS**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**TRINA WINSOR
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr D. Clarke, Senior Presenting Officer

For the Respondent: Mr R. Toal, of Counsel

DECISION AND REASONS

1. This is an appeal by the Secretary of State against the decision of the First-tier Tribunal (Judge Black) promulgated on the 4th October 2017, who allowed the respondent's appeal in respect of her claims both under Article 3 and under Article 8 of the Convention.
2. Upon an application made for permission to appeal that decision, the First-tier Tribunal granted limited permission to appeal in respect of the finding under Article 3 but refused permission under Article 8 on 31 October 2017.

3. The Secretary of State renewed that application before the Upper Tribunal in respect of the Article 8 ground on the papers and in a decision by Upper Tribunal Judge Smith on 15 March 2018 she refused that application.
4. Accordingly, as Mr Clarke conceded, the Secretary of State has no subsisting or viable appeal in respect of the Article 8 finding. Given that in order to remove the appellant to the United States of America the Secretary of State needs to succeed on both grounds, the Article 3 contention becomes academic. Whatever its merits might be they cannot affect the outcome of the case and in those circumstances and by a perfectly proper concession made by Mr Clarke we are driven to dismiss the Secretary of State's appeal in this case and do so.

Notice of Decision

The appeal of the Secretary of State is dismissed; the decision made by the First-tier Tribunal allowing the appeal shall stand.

No anonymity direction is made.

Signed

Date 02 May 2018

Mr Justice Edis