



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-000659

First-tier Tribunal No: PA/05978/2017

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 30 December 2024

Before

UPPER TRIBUNAL JUDGE HANSON

Between

MM
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance.

For the Respondent: Ms Rushforth, a Senior Home Office Presenting Officer.

Heard at Cardiff Civil Justice Centre on 18 December 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. In a decision promulgated on 6 August 2024 I set aside the decision of a judge of the First-tier Tribunal so far as they related to the refusal of the appellant's application for international protection on Article 3 ECHR grounds only.
2. The section of the determination which allowed the Appellant's appeal on Article 8 ECHR grounds, relied upon as an exception to his deportation from the United Kingdom, is a preserved finding.

3. Directions were given for the matter to come back before the Upper Tribunal to enable it to determine whether the appellant will face a real risk, if returned to Jamaica, of ill-treatment pursuant to Article 3 ECHR.
4. Notice was validly served to the Appellant's notified address for service of documents specifying the date, time, and venue of this hearing. The notice has not been returned as not having been delivered and there has been no application for an adjournment that has been granted. Notwithstanding, the appellant failed to attend the hearing. I am satisfied in all the circumstances, especially as there is no explanation for his failure to attend, that it is in the interests of justice to proceed in his absence.
5. The appellant is excluded from the Refugee Convention pursuant to section 72 Nationality, Immigration, and Asylum Act 2002. The First-tier Judge's finding to that effect is a preserved finding.
6. The appellant has been granted status pursuant to Article 8 and so will not actually be removed to Jamaica but the issue still requires to be determined even though it may be on a hypothetical basis.
7. The appellant's case is that as he double-crossed a named individual referred to in the evidence, by failing to deliver a drug shipment to that individual, he is at risk of being harmed or killed as a result of that individual taking revenge upon him. The appellant claimed he was asked to bring the drugs to the UK for the British Link Up Crew, a criminal gang.
8. The appellant refers to the fact that two female relatives and an older man were killed in the UK in what was described as a revenge killing in 2005, for which he has provided news reports. His claim is that if he is returned to Jamaica those who accuse him of double-crossing them will wish to take revenge upon him, causing him real harm or even killing him.
9. The appellant relies upon a country expert report from Mr Sobers. That refers to gang culture in Jamaica and the named gang in particular. It is the opinion of Mr Sobers that if the appellant returns to Jamaica and is identified by a member of the gang in question he faces a real risk of harm.
10. That left the question to be examined today of whether, on the evidence, if the appellant was returned to Jamaica there is a real risk that his presence will become known to the gang or any individual who would wish to extract revenge and cause him harm.
11. The burden of proving this was the case fell upon the appellant. As the appellant has not attended to advance his case, and as the evidence that has been provided and considered is not on its own sufficient to enable a finding in his favour, without more, I have to find that the appellant has failed to discharge the burden of proof upon him to the required standard to show that he faced a credible real risk of harm pursuant to Article 3 ECHR.
12. On that basis I dismiss the appeal.

Notice of Decision

13. Appeal dismissed.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

18 December 2024