



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

Appeal Number: HU/11628/2015

THE IMMIGRATION ACTS

Heard at Field House

On 8 December 2017

**Decision & Reasons
Promulgated
On 8 January 2018**

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**MISS CHENCHIRA MANGKHALAKUN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Kumi, Counsel instructed by Rehoboth Law

For the Respondent: Ms Z Ahmad, Home Office Presenting Officer

DECISION AND REASONS

1. In a decision sent on 27 February 2017 First-tier Tribunal Judge Callow dismissed the appeal of the appellant, a citizen of Thailand, against a decision made by the respondent on 10 November 2015 refusing leave to remain.
2. It is unnecessary for me to set out the grounds of appeal in any detail because Ms Ahmad accepts that the judge erred in failing to take into account the fact that the appellant is the parent of a British citizen child.

3. In light of this failure on the part of the judge I set aside his decision for material error of law. I consider I am in a position to re-make the decision without further ado.
4. I re-make the decision by allowing the appellant's appeal. Applying the guidance given in **SF and Others** [2017] UKUT 120 (IAC) I am satisfied that the appellant falls within the scope of S.117B(6) of the NIAA 2002 by virtue of being the parent of a British citizen child. As regards reasonableness, it is the respondent's own policy that save in cases featuring criminality or serious immigration misconduct it would not be reasonable to expect a British citizen child to leave the UK in order to be with a parent. There is no issue of criminality in this case. Whilst the appellant came to the UK in August 2014 as a visitor and overstayed, it is not suggested that her migration history is of such an order as to take her outwith the scope of the Home Office policy. Accordingly, because the appellant falls within the scope of the policy, there is no public interest in her being required to leave the UK. Her appeal succeeds on Article 8 grounds.

No anonymity direction is made.

Signed

Date:5 January 2018

A handwritten signature in black ink that reads "H H Storey". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Dr H H Storey
Judge of the Upper Tribunal