# Controversial ruling allows Colombian offender to remain in UK despite deportation order



A ruling regarding a Colombian national in the United Kingdom, who has a significant criminal history, has attracted attention following a decision that deemed him "too fragile" for deportation. The unnamed 46-year-old man, who has amassed 12 convictions for 27 offences since his arrival in the UK as a teenager in the 1990s, was described by the Deputy Upper Tribunal Judge Sandip Kudhail as a "persistent offender."

The man's criminal activities have been linked to his struggles with alcohol and substance misuse, and he had faced imprisonment for breaching a restraining order concerning his former partner, with whom he shares a child. Initially, he sought asylum upon his arrival but was granted discretionary leave to remain in the UK until December 2005. He later returned to Colombia but eventually came back to the UK, where he was granted indefinite leave to remain in 2007.

In 2018, a restraining order was established by his former partner, prohibiting contact except through solicitors or a contact centre, after which he was served with a deportation order. In February 2020, he was detained for potential removal, but judicial review proceedings delayed his deportation while further representations were made regarding his case.

Despite the history of his convictions, in October 2024, First-tier Tribunal Judge Phull granted the man permission to remain in the UK, citing Article Eight of the European Convention on Human Rights, which pertains to the right to respect for private and family life. Judge Phull articulated that the man had lived in the UK "lawfully for over half his life," establishing considerable social and cultural integration, and that there would be "very significant obstacles" should he return to Colombia. The judge noted his limited recent ties to Colombia, apart from some family contacts, and raised concerns regarding his mental health, characterising him as "fragile" and lacking adequate treatment options back in his country of origin.

Moreover, the judge identified the potential negative impact on his son, who has "undiagnosed autism," if the father were to be deported. This was framed as a consideration of undue hardship, as the child may struggle with the emotional ramifications of separation from his father.

In response to this ruling, the Home Office contested the decision, arguing that the judge had not sufficiently justified the claim of his lack of ties in Colombia, despite evidence of family connections. They maintained that there was no clear indication that the child's well-being would be adversely affected by the father's deportation. The Home Office also pointed out that the man's criminal past, which they argued should weigh heavily on the assessment, was portrayed as largely a reflection of his substance issues, conflicting with the notion of him leading a largely law-abiding life otherwise.

The appeal was heard, and Judge Kudhail determined that the case warranted a rehearing because the previous judge had failed to adequately address the potential familial support available to the man in Colombia, as well as the implications for his child should deportation proceed. Judge Kudhail identified an "error of law" in the initial ruling, leading to the decision to remit the case to a different panel within the First-tier Tribunal for further examination at a later date.

Source: [Noah Wire Services](https://www.noahwire.com)

## References

* <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20190823-otp-report-SP-2016-2018-eng.pdf> - This report on ICC's strategic plan touches on the complexities and challenges in handling cases where individuals may be characterized as fragile due to security challenges or insufficient legal frameworks, which can be relevant in deportation cases involving legal complexities.
* <https://www.vacourts.gov/courts/scv/rulesofcourt.pdf> - The Rules of the Supreme Court of Virginia provide guidance on legal procedures, including appeals, that can inform how decisions on deportation cases might be contested or reviewed, especially regarding the importance of detailed justifications in legal decisions.
* <http://usdiversitydynamics.com/nj/id28.html> - This resource discusses the complexities of immigration policies and the legal challenges involved in deportation cases, especially in contexts where migrants may face significant obstacles upon return to their countries of origin.
* <https://ecfr.eu/archive/page/-/ECFR115_International_Justice_Report.pdf> - This report highlights the fragility of political and legal systems, particularly in international justice contexts. It can be related to the challenges faced in deportation decisions when considering the social and familial impacts on individuals like the Colombian national.
* <https://www.bbc.co.uk/news/uk-34644955> - This BBC article discusses various legal challenges related to deportation and human rights, including the potential for judges to consider the emotional impact on family members, such as children, which is relevant to the case of the Colombian national.