



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

Appeal Numbers: IA/22629/2014
IA/22631/2014
IA/22634/2014
IA/22644/2014
IA/22647/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 18 June 2014**

**Decision & Reasons
Promulgated
On 23 June 2015**

Before

**UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE HILL QC**

Between

**ANTHONY OLAWALE ADIGUN
FAUSAT ABOLORE OLOWO
AL-AMEEN OLUWATOBILOBA ADIGUN
ALIYAH TEMITOPE ADIGUN
ZEENAH OLAMIDE ABIKE ADIGUN
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants Miss W Bremang, Counsel instructed by Whitecross Solicitors

For the Respondent: Miss A Fijiwala, Home Office Presenting Officer

DECISION AND REASONS

1. Although three of the appellants are children and facts in the appeal touch on their welfare the details are very general and we no need for, and do not make, any order restricting publication of any of the details of this case.

2. The five appellants in this case are members of the same family; the first two appellants are married to each other and the other three appellants are their minor children. We remind ourselves of the age of the children. They are aged 14 years, nearly 11 years and nearly 8 years and they have all lived in the United Kingdom for more than seven years. The first four appellants arrived in 2006. The fifth appellant was born in the United Kingdom.
3. They appeal against a decision of the respondent refusing them leave to remain in the United Kingdom. They argue their cases particularly on human rights grounds with reference to Article 8 of the European Convention on Human Rights. Their application was considered carefully by the Secretary of State and refused and the reasons for refusal given in writing in the usual way. Their appeals before the First-tier Tribunal were unsuccessful. They were given permission to appeal to the Upper Tribunal. The main point of concern to the First-tier Tribunal Judge who gave permission was that it was arguable that proper regard had not been given to the best interests of the children, given the amount of time they had spent in the United Kingdom and given the clear statutory obligations imposed by Section 55 of the Borders, Citizenship and Immigration Act 2009.
4. The First-tier Tribunal has lent itself to criticism by dealing rather briskly with the rights of the children and by not making clear findings in respect of each child and explained why in its judgement, notwithstanding the need to promote the best interests of the children, the appeal should be dismissed. This is not by any means necessarily a fatal failing. For reasons we go on to explain it has made no difference in this case but it is this failure which has attracted criticism and is something that the judge might want to think about in future determinations.
5. Ms Bremang has seized on this point and politely, but firmly, has made all that can be made of it and we have reflected on what she has to say. We are not persuaded that there is any material error here.
6. The key point is that it Ms Bremang had to agree that although there is considerable documentary evidence about the achievements of the children in summary the evidence is that they are all doing well at school and are showing that they have settled in the community. These are important points but that is the extent of them. It is clear from paragraphs 24, 26 and 27 of the Decision and Reasons that the First-tier Tribunal appreciated this before going on to decide that the best interests of the children lay in the family staying together. It was expected that they could all live together and the children could settle in Nigeria with the love and support of their parents and do well in their education there as they seemed to be doing well in the United Kingdom.
7. Ms Bremang suggested that the children were at a critical stage in their education. We do not accept that. They are the ages they are but this is not, for example, as case where an appellant was only a few weeks away from sitting public exams.
8. Section 117B of the Nationality, Immigration and Asylum Act 2002 makes provision for a "qualifying child" so that in the case of a "qualifying child"

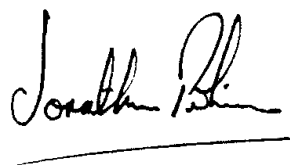
the public interest does not *require* their or the parents' removal. However this benefit is qualified further. Section 117B(6)(b) shows that section 117 only assists appellants seeking to resist removal if it would "not be reasonable to expect" the child to leave the United Kingdom. This has plainly been considered by the First-tier Tribunal Judge. He refers expressly to paragraph 117B (he means Section 117B), and there is nothing we can see that would have supported a conclusion that it would not be reasonable to expect the children to leave the United Kingdom.

9. We recognise that they have spent a lot of their lives in the United Kingdom but that is not sufficient reason to entitle them to stay and that is all that really is in this case.
10. Here the Judge can see no basis whatsoever for allowing the appeal of the appellants who have no right to remain in the United Kingdom at all except possibly on human rights grounds for the sake of the children. Although the rights of the children have to respect the statute provides that applications can only be allowed when it would not be reasonable to expect the children to leave. If there are circumstances where this statutory formula produced a result that is contrary to the appellants' human rights they do not exist here.
11. The First-tier Tribunal Judge has considered the prospects for the children in the event of their leaving. The First-tier Tribunal has made lucid findings at paragraph 26 of the Decision that are consistent with the evidence. We find that although it may be thought that the decision could have usefully been expressed more thoroughly it is done well enough to discharge the obligations imposed by Section 55 of the Border Control and Immigration Act. Once that is appreciated it follows that the children's interests have been put first. There is no proper basis for finding it not reasonable to expect the children to leave so the restrictions imposed by Section 117B do not assist them.
12. In short the First-tier Tribunal Judge has reached a permissible conclusion which is explained, at least adequately, in the determination when it is read carefully.
13. It follows that although we appreciate Ms Bremang's efforts in pushing hard in the weak spot of the Decision we are not persuaded that there is a material error of law and we dismiss the appellants' appeals in this case.

Notice of Decision

The appeals are dismissed.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 19 June 2015

