



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

Appeal Number: IA/02099/2015

THE IMMIGRATION ACTS

Heard at Birmingham

On 18 April 2016

**Decision & Reasons
Promulgated
On 19 April 2016**

Before

**Deputy Upper Tribunal Judge Pickup
Between**

**Celcila Yoe-Anyi Kawakuvi
[No anonymity direction made]**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant: Not legally represented

For the respondent: Mrs R Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Birk promulgated 13.4.15, dismissing on immigration and human rights grounds her appeal against the decision of the Secretary of State to refuse her application for leave to remain in the UK as the victim of domestic violence. The Judge heard the appeal on 13.4.15.
2. First-tier Tribunal Judge White granted permission to appeal on 24.8.15.
3. Thus the matter came before me on 18.4.16 as an appeal in the Upper

Tribunal.

Error of Law

4. I can only interfere with the decision of the First-tier Tribunal if I find an error of law in the making of the decision of the First-tier Tribunal sufficient to require the decision of Judge Birk to be set aside. For the reasons set out below, I find no such error.
5. The appellant was not legally represented before me and was similarly not represented at the First-tier Tribunal appeal hearing. Before Judge Birk the appellant stated that she thought she was to be represented but was told by her representative that he was not licensed to speak on her behalf. She made no application to adjourn.
6. During the course of the hearing before the First-tier Tribunal, the appellant said that she had given her solicitors documents for the hearing, which she believed had been sent in. Judge Birk found that whilst some documents are referred in the solicitors' covering letter of 9.10.14 submitted with her application, they were not found in the case papers. However, as far as I can see, with the exception of a letter from the hospital, everything listed in that letter is now with the case papers. It appears likely that the hospital letter either referenced the then pending birth of her child, or treatment for injuries arising from her claim to be the victim of domestic violence.
7. The grant of permission to appeal by Judge White was on the basis of the appellant's assertion that she could provide further information from the police. Judge White stated, "It is arguable that there may have been procedural unfairness in not adjourning the hearing in order to allow the appellant to produce such information that may have been material to the issues. Accordingly I am satisfied that the grounds and decision and reasons disclose an arguable error of law."
8. It is not at all clear which documents the appellant was referring to, or what Judge White considered their relevance to be. In the handwritten grounds of appeal, the appellant stated that she could not get a reply from the officer who handled her domestic violence case. The solicitors' letter made no reference to any information from the police, other than two West Midlands Police Contact cards, one of which has the single word 'assault' on it.
9. The remainder of the grounds assert that she should be allowed to remain in the UK on human rights grounds because her relationship had ended with a child and it will be difficult for her to return to her country because she would have no one to turn to. Her father is in Ireland and cannot financially sponsor the appellant and her son. She also said that she was taking medication for depression.
10. The appellant first came to the UK in 2012 with leave as a student, subsequently extended to October 2013. She stopped studying in June

2013. She has remained in the UK without leave since the expiry of her leave. On 10.10.14 she applied for settlement in the UK as the victim of domestic violence, arising from a relationship outside of marriage with [NN], which she claims broke down on 24.8.14. She has a child, RKM, born after the end of the relationship, on 17.10.14.

11. As Judge Birk found, the appellant does not meet the requirements of the Rules for leave to remain as the victim of domestic violence.
12. I am not satisfied that any adjournment could or would have assisted the appellant. It is not necessarily the case that the judge disbelieved her account of having been the victim of domestic violence, but assuming that she had been, she was no longer with the partner and not at risk from him on return to Cameroon. Even before me, the appellant still had not obtained the evidence she spoke of from the police. On enquiry, she told me that the evidence she sought consisted only of confirmation from a police officer that she had reported domestic violence. No police action or prosecution had taken place. In the circumstances the appellant was not prejudiced by the judge's alleged failure to grant an adjournment.
13. The appellant told me at the hearing that she has now discovered that her son, whose birth certificate does not name any father, is not the child of the partner with whom her relationship ended in August 2014. She has discovered through DNA testing that he is the son of an entirely different man, [FB], a national of the DRC, with whom she told me she had a 'one-night stand,' and with whom she has no on-going relationship. Apparently this gentleman, whom the appellant states has indefinite leave to remain in the UK, is attempting to register himself as the father of her child and to obtain British citizenship for the child. If that is the case, the appellant may have an alternative avenue to pursue for leave to remain in the UK. However, those are matters outside the remit of this appeal and over which the Upper Tribunal has no control.
14. I am satisfied that the First-tier Tribunal took proper account of all the appellant's circumstances in considering her application for leave to remain on human rights grounds. There was no procedural unfairness. No error of law is disclosed in the decision and thus this appeal must fail.

Conclusions:

15. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



Signed

Deputy Upper Tribunal Judge Pickup

Dated

Deputy Upper Tribunal Judge Pickup

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue.

Given the circumstances, I make no anonymity order.

Fee Award

Note: this is not part of the determination.

In the light of my decision, I have considered whether to make a fee award.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: The appeal has been dismissed and thus there can be no fee award.



Signed

Deputy Upper Tribunal Judge Pickup

Dated