



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/00198/2017

**THE IMMIGRATION ACTS**

Heard at HMCTS Employment Tribunals Liverpool  
On 22 February 2018

Decision & Reasons Promulgated  
On 25 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

FB  
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr J Nicholson, Counsel, instructed by Greater Manchester  
Immigration Aid Unit

For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

**DECISION AND REASONS**

- 1 The appellant, a national of Nigeria appeals against the decision 13 June 2017 of Judge of the first-tier Tribunal Siddiqi dismissing the appellant's appeal against the decision of the respondent dated 21 December 2016 refusing her protection and human rights claim.

- 2 The appellant last arrived in the United Kingdom on 19 August 2011, using a multiple entry visit visa issued on 9 November 2007, valid for five years. She arrived with her son QB (then aged 11, and 16 at the date of the judge's decision), and her daughter YB (then aged 8, and 13 of the date of the judge's decision). All three had therefore been present in the UK for five years and nine months by the time of the hearing before the judge.
- 3 Following entry in 2011, the appellant overstayed her leave to enter. In 2015, she paid someone in an attempt to regularise her stay, but the appellant said that this man took her money and did not make an application to the respondent. She was served with notice of being an overstayer in January 2016, she claimed asylum on 6 July 2016.
- 4 The appellant's claim for protection was that she had experienced domestic violence from her husband, and feared further serious harm from him upon return. The appellant stated that her husband had joined the Ogboni cult, and had tried to make her join, but she had refused. The appellant also feared that her husband would subject her daughter, YB, to female genital mutilation.
- 5 The respondent rejected the appellant's protection claim in the decision dated 21 December 2016, and also found that the removal of the appellant and her children from the United Kingdom would not amount to an unlawful interference with their rights to private or family life under article 8 ECHR.
- 6 On appeal, the appellant pursued her protection claim, and also relied upon evidence about her children's attendance at school in the United Kingdom. The judge heard oral evidence from the appellant, and also from QB.
- 7 The judge held that the appellant's husband was not a member of the Ogboni cult [24], and had not attempted to force the appellant to join the cult [25]. Although the judge appeared to accept that the appellant had been subject to domestic violence [29] and had complained to the police three times about this [33], she held that YB was not at risk of FGM [32]; the husband had not burned down the appellant's shop, causing her to eventually flee Nigeria, as claimed [34]; the appellant's delay in claiming asylum in the UK undermined her credibility [36]; there was now a sufficiency of protection for the appellant against her husband, now that the marriage had broken down[38]; there will be a sufficiency of protection to prevent appellant's daughter from being forced to undergo FGM [38].
- 8 Further, the appellant could in any event internally relocate in Nigeria[39]. On that issue, the judge also held:

"40. The appellant would be returning to Nigeria with her two children. Her mother and extended family still live in Nigeria. The appellant was previously able to relocate within Nigeria. Her evidence is that although she initially stayed with a friend, she then moved by herself and was working as a

trader. Although her relationship with husband broke down in 2009, she had enough income to travel to the UK on holiday in 2009, 2010, and 2011 before bringing had two children to the UK in 2011. Although she has not said whether the children's boarding school was privately funded, she was able to arrange for her children to continue at school. Similarly, the appellant states that she has no family in the UK that she was able to adapt to relocating within the UK. I am not persuaded that the appellant and her children would not be able to relocate within Nigeria. The appellant and her children are familiar with the language and culture of Nigeria and the appellant has spent the majority of her life living in Nigeria. I am not persuaded that it would be unduly harsh for the appellant and her family to relocate upon return to Nigeria. Taking this into account, I find the appellant has not established her claim for asylum."

- 9 It is to be noted that there is no challenge to any of these findings to the Upper Tribunal.
- 10 The judge then considered the appellant's Article 8 human rights claim at [42] onwards. The judge dismissed the appeal on human rights grounds at [55]. I will consider the judge's reasons in more detail below.
- 11 The appellant sought permission to appeal against the judge's decision, on grounds dated 20 June 2017. The grounds are, with respect, discursive, and it is difficult to distill from them what specific error of law is being alleged within the judge's decision. However, they argue, in summary, as follows:
- (i) the judge erred in dismissing the appeal 'almost entirely' on the basis that the appellant had delayed claiming asylum (grounds, para 3);
  - (ii) the judge had failed to direct herself in accordance with submissions made on the authorities of *ZH (Tanzania) v SSHD* [2011] UKSC 4, and *Tologiwa v SSHD* [2012] EWHC 2386 (grounds, para 3, 11, 12);
  - (iii) the Judge failed to take into account the fact that there existed a lacuna in paragraph 276ADE(1) in relation to children who have not been present in the UK seven years prior to the date of application (grounds, para 3, 15); QB's appeal should have been allowed under the rules (grounds, para 15);
  - (iv) the judge had failed to take into account the children's own wishes (grounds para 3, 10, 11, 13, 14);
  - (v) the judge had erred in failing to consider the drawbacks of education in Nigeria, especially for girls (grounds, para 3);
  - (vi) the judge's reliance on *EV (Philippines) and others* [2014] EWCA Civ 874, was misplaced (grounds, para 4);
  - (vii) although the judge recognised that the best interests of children must be assessed in isolation from other factors, such as parental misconduct, she then erred in not applying this to her conclusions at [51-54] (grounds, para 11), and, 'critically', it was submitted that judge holding the appellant's delay in claiming asylum against the children was wrong in law (grounds, para 13-14);

having found that it was in the children's best interests to remain in the UK, there was only one answer to the appeal (grounds, para 14);

- (viii) the best interests of the children were not outweighed 'simply because there is education in Nigeria and the appellant had worked as a trader previously' (grounds, para 13);
- (ix) the judge's finding that the appellant could work in Nigeria was inconsistent with the judge's previous finding that the appellant was not able to demonstrate independent financial means whilst in the UK (grounds, para 13);
- (x) the appellant would be without support anywhere where her ex-husband might find her, limiting the appellant's ability to reside safely, with housing job prospects, or access to education for her children (grounds, para 14).

12 Permission to appeal was granted by Judge of the First tier Tribunal Dineen on 21 September 2017 on the grounds that they were arguable.

13 At the hearing before me, Mr Nicholson provided a copy of the Upper Tribunal decision in the case of *MT and ET (child's best interests; ex tempore pilot)* Nigeria [2018] UKUT 88(IAC), which I was informed was in fact the same appellant as the claimant in *Tologwa*.

14 Mr Nicholson relied upon the grounds of appeal. He argued that the judge had held at [51] that it was in the children's best interests to continue with their schooling without any disruption and to reside with her mother (impliedly in the UK). There needs to be strong reasons to outweigh the children remaining in the UK, and there were not sufficiently strong reasons in the present case. Mr Nicholson argued that the judge had left out of account the children's length of residence in the UK, and had not properly considered the authority of *Tologwa*. The appellant was a run-of-the-mill overstayer; she did not have the very poor immigration history that, for example, the appellant in *ZH Tanzania* possessed. I invited Mr Nicholson to focus on what error of law was alleged to be present in the judge's decision. He submitted that having found that the children's best interest was to reside in the UK, the judge had not identified adequate countervailing reasons to dismiss the appeal.

15 Mr Harrison relied upon the rule 24 reply dated 31 October 2017 which resisted the appellant's appeal, and argued that the judge made adequate findings of fact and gave adequate reasons for the findings she made on the protection claim, and properly considered the position of the appellant's children as noted in the determination. Mr Harrison argued that insofar as the judge relied upon the appellant's adverse immigration history, by delaying her claim for asylum, the judge was entitled to take that matter into account in accordance with *EV (Philippines) & Ors v Secretary of State for the Home Department* [2014] EWCA Civ 874, but in any event the appellant's immigration history was by no means the only factor taken into account by the judge in dismissing the appeal.

16 By way of reply, Mr Nicholson argued that *EV Philippines* is rarely a useful authority, and the judge erred in failing to direct herself further in relation to *Tologwa*. Mr

Nicholson drew to my attention the documents at page 35 the appellant's bundle, being the documents provided to the appellant by the unscrupulous advisor in 2015, the content of which was clearly a nonsense, and the appellant had been duped, suggesting that there was a reasonable excuse of a delaying claiming asylum. Referring to the outcome in the proceedings in *MT and ET*, Mr Nicholson argued that the time spent in the UK by the children should have resulted in the present appeal being allowed.

## Discussion

- 17 Before considering the appellant's challenge to the judge's decision on article 8, I would attempt to summarise the judge's observations:
- (i) the judge noted extensive evidence showing that the children were doing very well at school in the UK and have integrated well into the school communities [42];
  - (ii) the judge held that the appellant did not meet the requirements of paragraph 276ADE(1)(vi), as there were no very significant obstacles to her integration into Nigeria;
  - (iii) the children did not meet the requirements of 276ADE (1)(iv), as they had not resided in the UK for 7 continuous years prior to the application [44];
  - (iv) considering the position of the appellant and the children outside of the immigration rules, the judge directed herself in law as regards to S.55 Borders, Citizenship and Immigration Act 2009 that she needed to take into account the best interests of the children as a primary consideration; the best interests of the child must be assessed in isolation from other factors, such as parental misconduct [47];
  - (v) with regard to the considerations under S.117B, NIAA 2002 [48]:
    - (a) the maintenance of effective immigration role was in the public interest, and the appellant did not meet the requirements of the immigration rules, and have sought to circumvent the immigration controls by entering on a visit these and overstaying;
    - (b) the appellant spoke Yoruba, and some English;
    - (c) the appellant was not financially independent in the UK;
    - (d) s.117B(6) did not apply, as the appellant's children were not 'qualifying children' who had resided in the UK the for seven or more years;
  - (vi) the judge directed herself at length as regards considerations set out in the case of *EV Philippines* at [49];
  - (vii) the judge noted Mr Nicholson's submission regarding *Tologawa*, and the which made references to the inadequacies of the Nigerian education system [50].
- 18 I would also set out the remainder of the judge's reasoning in its entirety, as follows:

“51. The children have resided in the UK for just under six years and as referred to in the preceding paragraphs, the evidence demonstrates that they are well settled into their schools and have integrated into the school communities. I consider that it is in their best interests to continue with their schooling without any disruption and to reside with their mother. Nevertheless, I remind myself that in ZH Tanzania ... Lady Hale noted that the national authorities were expected to treat the best interests of the child as “a primary consideration and that “a primary consideration” is not the same as “the primary consideration” still less as “the paramount consideration”.

52. The Asylum Decision refers to objective evidence regarding the education system in schools; this confirms that there is both secondary school and university education in Nigeria. The family would be returning to Nigeria as a close family unit. QB lived in Nigeria for approximately 11 years and YB lived there for nearly 8 years. Both children speak Yoruba. The appellant's mother and extended family live in Nigeria and she does not have any relatives in the UK other than her two children. The appellant worked as a trader in Nigeria before coming to the UK and was seemingly able to support herself and her two children at that time.

53. Taking this into account, I note that the children have close ties to Nigeria. Their grandmother and extended family live in Nigeria and therefore the children would have the support their integration into Nigeria. The children are familiar with the culture and education system of Nigeria. I accept that both children are at an important stage in their education but they are well-educated and the appellant would be able to support them in accessing education upon their return to Nigeria. I consider the appellant has not established that the children would have difficulty in continuing their education or integration into Nigeria.

54. The appellant is effectively arguing that having a delayed in claiming asylum to 5 years, she should be permitted to stay here with her family on the basis that they have established a private life during that time. I consider the decision to refuse her leave is proportionate, notwithstanding the disruption to the children's education in the UK. After giving due consideration to both the appellant's circumstances and those of her family, I am satisfied that any interference with their family and private life is proportionate under ECHR Article 8 (2), having regard to the respondent's legitimate aim of maintaining a fair and just immigration policy.

55. Taking the above into account, I dismiss the appeal on human rights grounds.'

19 Dealing with the appellant's grounds of appeal, as I have attempted to summarise them at para 11 above:

- (i) (a) Having regard to the entirety of the judge's decision, it is not sustainable to argue that the judge dismissed the human rights appeal ‘almost entirely’ on the basis that the appellant had delayed claiming asylum. The judge noted that the immigration rules were not satisfied; directed herself as to the relevant considerations under Part 5A NIAA 2002; directed herself in law as regards the application of *EV Philippines* (and see further, below); she considered the evidence before her as to

the adequacy of the Nigerian education system, including the disruption to the children's education which may result as a result of leaving the United Kingdom. The appellant's overstaying in the UK was but one consideration which the judge took into account.

- (ii) (a) Mr Nicholson does not state with any specificity exactly what principles within *ZH Tanzania*, and *Tologiwa* were relied upon before the judge, or in what way those authorities were not followed. It is clear that the judge directed herself appropriately in law; that the best interests of children must be assessed in isolation from other factors. Insofar as Mr Nicholson argues that the outcome in the *ZH Tanzania* itself should have influenced the outcome of the present appeal, such argument is not sustainable. Although the appellant in *ZH Tanzania* did indeed have a worse immigration history than the present appellant, and yet succeeded in her appeal, she did so because the Supreme Court gave very significant weight to the consideration that ZH's children were both British; had resided in the United Kingdom all of their lives, being 12, and 9, years respectively; they had an unqualified right of abode in the UK; and they had a good relationship with their father in the UK; the children had lived in the UK for all of their lives and were being expected to move to a country which they did not know and to be separated from a parent who they also knew well; the intrinsic importance of their British citizenship was also not to be played down. It was those factors which resulted in Lady Hale being of the view that 'there really was only room for one view' as to the outcome of the (see *ZH Tanzania*, paras 2, 31, 32, 33).
- (b) The children of the present appellant are not British; they were born in Nigeria and resided there up to the ages of 8 and 11 respectively; they had resided in the UK for 5 years and 9 months at the time of the appeal; they had no other family members present in the United Kingdom. There was thus no disparity of outcome in the present appeal (if indeed Mr Nicholson makes that argument), when comparing the present facts to those in the case of *ZH Tanzania*.
- (c) Insofar as Mr Nicholson makes a similar argument, that the outcome in the present appeal is inconsistent with the outcome in the case of *Tologiwa*, it is to be noted that case concerned a judicial review challenge against a decision of the respondent made in 2011 certifying that claimant's human rights claim as being clearly unfounded. That claimant entered the UK in 2007 with her daughter who was then four years old. An appeal to the first-tier tribunal was dismissed in 2011. The claimant made a fresh asylum and human rights claim which was refused with no right of appeal. The subsequent judicial review did not challenge the refusal of the protection claim but rather, challenged the certification of the human rights claim as being clearly unfounded.
- (d) Quashing the respondent's certificate, the judge held as follows:

“38. However, Mr Nicholson also made what I consider to be a much more powerful submission than what this letter did not do was to consider the child's best interests in the particular factual context of this case. In particular, it did not consider the impact of removal of the child to Nigeria, both in the context of the educational facilities which would actually be available to her and also more generally her welfare and care and opportunities.

...

40 ... However it seems to me that there was simply no engagement in the letter of 30th September or in the letter of 4th July with that fundamental question as to what the position would be if the claimant and her daughter were returned to Nigeria. In particular, where they would go? What work might realistically be available to the claimant? How would she look after her daughter if she was working? What accommodation might be available? What alternative financial support or accommodation might be available if the claimant could not find work? What support might be expected from the family in Nigeria, or other friends or support networks or anything like that?

41. There was some passing reference, in paragraphs 51 and 57 of the September 2011 decision letter, to the fact that the claimant was a well educated resourceful woman, who had been able to find employment in Nigeria previously but that it seems to me is in no way sufficient, when one is considering the best interests of the child, to answer the question what actually was likely to happen to the claimant's daughter if she was returned to Nigeria with her mother.

42. Secondly, so far as education is concerned, it seems to me that the letter of 4th July 2012 made a very significant assumption, which was to equate the availability of education in Nigeria, in other words the fact that there was an opportunity of accessing education in Nigeria, with an assertion that the claimant's daughter would actually be able to access that education.

43. It seems to me that that was obviously an assumption too far, because the evidence in the country report to which I have referred shows, in my judgment, that it would very much depend on a number of significant factors. In particular it would depend, it seems to me, on where the claimant and her daughter would go? What sort of facilities there were in that area or those areas? What the barriers were to education, whether the schools might be full or empty and the like? Simply to say, it seems to me, based upon the report, that in general terms education is available when it is also made clear that as a matter of fact education is by no means guaranteed to be available to many if not the majority of individual children in Nigeria, was to make an unsubstantiated conclusion, without looking at the individual facts of the case.”

- (e) Mr Nicholson also submitted the decision *MT and ET*. Following that appellant's successful judicial review (as per *Toligiwa*), the decision in *MT and ET* sets out that the respondent made a new decision refusing her human rights claim, but carrying an in country right of appeal.



MT's subsequent appeal to the First-tier Tribunal was dismissed in November 2012. MT made further representations leading to a decision of the respondent in August 2016, refusing the human rights claim. MT's appeal against a decision came before Judge Martins as part of the Proof of Concept for Extempore Judgement Pilot, 2017. The appeal was dismissed. On appeal, the Upper Tribunal held that Judge Martins had erred procedurally (paras 21 - 22), and in the way that the judge had dealt with oral evidence of MT's daughter ET (para 24). Remaking the decision (paras 26 - 34), the Upper Tribunal observed that ET had by then been present in the UK for 10 years, from the age of 4 to 14 (para 30), and had no direct experience of Nigeria (para 31). The Upper Tribunal did not in fact find it necessary to make any comparative analysis of the education systems in the UK versus Nigeria (para 31, first and second lines), but held that on the state of the law as set out in *MA (Pakistan)*, there needed to be 'powerful reasons' why a child who has been in the United Kingdom for over 10 years should be removed, notwithstanding that her best interests lie in remaining. The Upper Tribunal held that para 34 that there were no such powerful reasons, despite that appellant's overstaying and a criminal offence resulting in a community order for the use of force document to obtain employment.

- (f) These facts, again, can be contrasted with the facts of the present case. ET had been present in the United Kingdom for almost double the period of the two children in the present appeal, and on the findings of the Upper Tribunal in *MT and ET*, had no direct experience of Nigeria (having left the age of four). I find that the different factual matrices in *ET and MT* and the present case entirely justify the different outcomes, and the appellant's reliance on *ET and MT* establishes no error of law in the present decision.
- (g) I consider the approach to differences in education provision between the UK and Nigeria, as discussed in *Toligiwa*, at (v) below.
- (iii) Even if there is a lacuna in a paragraph 276ADE (1) in relation to children, who have been present in United Kingdom less than seven years, it is clear that the judge proceeded to consider the children's position outside of the immigration rules, in accordance with Article 8 ECHR. I do not see any error of approach here. Further, I do not understand how the appellant can argue that there is a lacuna in the immigration rules, on the one hand, on the particular facts of the case, but simultaneously argue that the appeal should have been allowed under the rules for the appellant's son. Further, insofar as it is argued that the judge failed to take into account the children's length of residence in the UK, this is not sustainable; the judge referred to this at the beginning of [51].
- (iv) In relation to the evidence given by the appellant's son QB, the judge referred to his evidence, at paragraphs 11, 12, 24, 27, and 29. I do not see how the judge could be said to have failed to take his evidence, or his wishes, into account further. In relation to YB, it is correct to note that the judge does not directly

refer to the handwritten letter by YB within the appellant's bundle. However that letter expresses, in summary, YB's preference to remain in the United Kingdom so that she can have a good and better education here, and to remain in touch with the friends that she has made whilst here. However, the judge considers matters of education, as discussed above, and considers the potential disruption to the children's education, and the family's integration into Nigeria [53]. I do not find that the judge has left any material consideration out of account.

- (v) (a) It is argued that the judge erred in failing to consider the drawbacks of education in Nigeria, especially for girls. It is clear that in *Tologiwa*, Mr Justice Davies found the respondent's decision, which was the subject of the judicial review challenge in that case, lacking in terms of its consideration of the likely circumstances prevailing for the claimant and her daughter upon return to Nigeria. The judge queried where the family would go, what work might realistically be available to the claimant, how might she look after her daughter if she was working (the daughter at the time of the hearing being approximately nine years old), what accommodation or other financial support might be the available to the claimant, et cetera (judgement, para 40).

- (b) The observations of Mr Justice Davies must also be read alongside the judgement of the Court of Appeal in *EV Philippines*:

“35 A decision as to what is in the best interests of children will depend on a number of factors such as (a) their age; (b) the length of time that they have been here; (c) how long they have been in education; (c) what stage their education has reached; (d) to what extent they have become distanced from the country to which it is proposed that they return; (e) how renewable their connection with it may be; (f) to what extent they will have linguistic, medical or other difficulties in adapting to life in that country; and (g) the extent to which the course proposed will interfere with their family life or their rights (if they have any) as British citizens.

36 In a sense the tribunal is concerned with how emphatic an answer falls to be given to the question: is it in the best interests of the child to remain? The longer the child has been here, the more advanced (or critical) the stage of his education, the looser his ties with the country in question, and the more deleterious the consequences of his return, the greater the weight that falls into one side of the scales. If it is overwhelmingly in the child's best interests that he should not return, the need to maintain immigration control may well not tip the balance. By contrast if it is in the child's best interests to remain, but only on balance (with some factors pointing the other way), the result may be the opposite.”

- (c) The context of the present appeal, of course, is that the appellant had advanced a claim for protection, which has failed. Although the judge accepted that the appellant had been subjected to domestic violence from her husband, the other elements of her claim, including that the

husband had joined the Ogboni cult, and that he had burned down her shop causing her to eventually flee Nigeria, were not believed. The reason that the appellant had given for her departure from Nigeria had therefore been rejected. On the findings of the judge, unchallenged in this appeal, there is no geographical restriction on the location where the appellant and her children may return to. There will be effective protection to her anywhere in the country. The alleged events which caused her immediate departure from Nigeria were not believed.

- (d) The judge found that the appellant's previous business had provided her with sufficient income after her separation from her husband and 2009, to enable the appellant to travel to the United Kingdom three further times [40]. The appellant had previously placed her children in boarding school, and there was no evidence before judge to suggest that they were obliged to leave boarding school for financial reasons after the appellant separated from her husband. The judge also noted that prior to her departure from Nigeria, the appellant had worked as a trader and was seemingly able to support herself and her two children at that time [52]. The judge also noted that the appellant had her mother and extended family still living in Nigeria.
- (e) I am of view, in those circumstances, that the judge was not obliged to make any more specific findings as to exactly where the appellant should choose to live, or what schools her children may be able to attend, over and above the findings made at paragraph [52], which was that there were both secondary school and university education system in Nigeria.
- (vi) There is nothing misplaced in the judge's self-direction at [49], which is clearly a reference to *EV Philippines*. I am of the view that the guidance in those paragraphs sets out a series of considerations which are relevant to the assessment of the proportionality of a proposed removal of a child from the United Kingdom.
- (vii) (a) The appellant's argument that having found that it was in the best interests of the children to remain in the United Kingdom, it was wrong for the judge to have taken into account the mother's adverse immigration history in the proportionality assessment, is unsustainable. The judge did not take the appellant's immigration history into account in determining best interests, correctly leaving such matters out of account that stage the decision (see [47], and [51]). Further, there is clear authority that having identified what the best interests of a child might be, other factors such as the conduct of the applicant and any other matters relevant to the public interest *can* be taken into account when conducting the proportionality assessment: see eg *EV Philippines* para 37, and *MA Pakistan*, para 45. Indeed, in *ZH Tanzania* itself, at para 33:

“In making the proportionality assessment under article 8, the best interests of the child must be a primary consideration. This means that they must be considered first. They can, of course, be outweighed by the cumulative effect of other considerations. In this case, the countervailing considerations were the need to maintain firm and fair immigration control, coupled with the mother's appalling immigration history and the precariousness of her position when family life was created.”

- (b) Although that passage is then followed by the sentence “But, as the Tribunal rightly pointed out, the children were not to be blamed for that”, I am of the view that this is intended to be a reference to the determination of best interests, not proportionality. If that were not the case, the explicit statement immediately before, that the mother’s immigration history *was* a countervailing factor to be taken into account, would make no sense. Further, in subsequent authority such as *EV Philippines* and *MA Pakistan*, the Court of Appeal has taken no issue with the proposition that a parent’s immigration history could be a matter to be weighed in the proportionality balancing exercise. The present judge having placed the present appellant’s immigration history in the balance discloses no error of law.
- (viii) It is not made out that the judge held that the best interests of children were outweighed ‘simply because there is education and Nigeria and the appellant had worked as a trader previously’. I am of the view that the judge’s decision contained a proper consideration of all the relevant circumstances.
- (ix) There is no inconsistency with the implied finding that the appellant could find work again as a trader in Nigeria, and the judge’s finding under s.117B(6) NIAA 2002 that the appellant was not financially independent in the UK. The fact that the appellant has not been able to be financially independent in the UK will largely have been due to her having no lawful status in the UK, with no permission to work, and limited English, and she has been supported by friends. Those circumstances say nothing about the appellant's likely ability to resume employment in Nigeria, which, on the judge's findings, had been sufficient in the past to support her and her children, to provide them with an education, and to fund a number of visits to the UK between 2009 and 2011.
- (x) The appellant's argument that the appellant would be without support anywhere her ex-husband might find her, limiting her ability to reside safely without housing, job prospects, or access to education, is simply not made out on the basis of the judge's findings, which were that there was no real risk of serious harm to the appellant anywhere in Nigeria, and effective protection was available to her.
- 20 The appellant's grounds of appeal do not disclose any material error of law in the judge's decision.

**Decision**

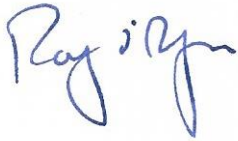
21 The judge's decision did not involve the making of any error of law.

I do not set aside the judge's decision.

The appellant's appeal is dismissed

Signed:

Date: 21.6.18

A handwritten signature in blue ink, appearing to read 'Ray O'Ryan', written in a cursive style.

Deputy Upper Tribunal Judge O’Ryan

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

The appeal involves a protection claim and minors. Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their families. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.