



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

Appeal Number: PA/14204/2016

THE IMMIGRATION ACTS

**Heard at City Centre Tower, Decision & Reasons
Birmingham Promulgated
On 29th January 2018 On 26th February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

[A A]

(~~ANONYMITY DIRECTION NOT MADE~~)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E Rutherford, Counsel instructed by Braitch RB
Solicitors

For the Respondent: Mrs H Aboni, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a female citizen of Nigeria born on [] 1981. After various unsuccessful applications for leave to enter in order to study in the UK, the Appellant entered the UK illegally in February 2010. Subsequently the Appellant was granted leave to remain as a postgraduate student until 9th January 2014. The Appellant returned to Nigeria between June and July 2012, and after the expiration of her visa, applied unsuccessfully for leave

to remain on human rights grounds. Eventually on 9th June 2016 the Appellant made an application for asylum. That application was refused for the reasons given in an Asylum Decision dated 15th December 2016. The Appellant appealed and her appeal was heard by First-tier Tribunal Judge E M M Smith (the Judge) sitting at Stoke on Trent on 4th July 2017. He decided to allow the appeal on asylum grounds for the reasons given in his Decision dated 11th July 2017. The Respondent sought leave to appeal that decision and on 6th October 2017 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Judge allowed the appeal because he found the evidence to be credible and accepted that the Appellant had a mental health illness so that if she returned to Nigeria she would be perceived by her family as being possessed by evil spirits so that she and her children would suffer persecution by way of being exorcised. Relying on the expert evidence of Professor Aguilar, the Judge further found that the Appellant could not safely relocate within Nigeria because if she returned she would be easily found by her family, and that there would be no State protection for the Appellant because in Nigeria the stigma of mental illness carried with it a real danger.
4. At the hearing, Mrs Aboni submitted that the Judge had erred in law in coming to this conclusion. She referred to the grounds of application and argued that the Judge had erred in failing to give adequate reasons for his finding that the Appellant had a well-founded fear of persecution because the Judge had failed to consider properly the prospect of safe internal relocation and whether the Appellant's family would be able to track her down.
5. In response, Ms Rutherford referred to the Rule 24 response and argued that there had been no such material error of law. The credibility of the Appellant had not been challenged and the Judge had accepted what the Appellant said about events in Nigeria. The Judge had considered whether it would be unreasonable by way of being unduly harsh for the Appellant to relocate in Nigeria. The Judge had taken into account the Appellant's mental health issues and the lack of support from her family at paragraph 38 of the Decision. The possibility of State protection was dealt with by the evidence of the expert witness and the Judge had made an appropriate finding at paragraph 31 of the Decision.
6. I find no material error of law in the decision of the Judge which I therefore do not set aside. The sole issue in this appeal is whether the Appellant would be safe on return to Nigeria as she would be able to avoid the danger of her family treating her mental health illness as evidence that she was possessed by evil spirits by relocating within Nigeria. The Judge came to a conclusion in this respect open to him on the evidence before

him and which he sufficiently explained. The Judge was entitled to rely upon the unchallenged evidence of an expert, Professor Aguilar, which was that on her return to Nigeria the Appellant could be easily located by her family wherever she went. At paragraph 35 of the Decision, the Judge also considered that the Appellant would not have the assistance of her family on return and that therefore she could not use her family to escape the real danger presented by the stigma associated with mental health illness. The Judge referred to the criteria set out in paragraph 3390 of HC 395, and the decisions in **SSH D v AH (Sudan) and others [2007] UKHL 49** and **Januzi v SSH D [2006] UKHL 5**. There was no error of law in the decision of the Judge.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside that decision.

The appeal to the Upper Tribunal is dismissed.

Anonymity

The First-tier Tribunal did not make an order for anonymity. I was not asked to do so, and indeed find no reason to do so.

Signed

Date 21st February 2018

Deputy Upper Tribunal Judge Renton