



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/15718/2017

**THE IMMIGRATION ACTS**

Heard at Bradford  
On 2 January 2019

Decision & Reasons Promulgated  
On 1 February 2019

Before

UPPER TRIBUNAL JUDGE LANE

Between

JESSICA SERENCIO  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Not present or represented

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Jessica Serencio, born on 16 March 1973 is a citizen of the Republic of the Philippines. By decision dated 9 November 2017, the Secretary of State refused the appellant's human rights application. The appellant appealed to the First-tier Tribunal (Judge Traynor) which, in a decision promulgated on 19 March 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant did not attend the Upper Tribunal initial hearing at Bradford on 2 January 2019 nor was she professionally represented. I note that her solicitors (GB Immigration) remain on record. I note also that notices of the initial hearing were sent by first class post on 19 November 2018 both to the appellant and her last known

address in Leeds and to the representatives. The representatives and the appellant had not provided any explanation as to why they have failed to attend the hearing and, in the circumstances, I proceeded to hear the appeal in the absence of the appellant/her representatives.

3. The immigration history of this appellant is set out in some detail by Judge Traynor at [3]. The appellant had entered the United Kingdom as a student (she had not sought to remain in any other capacity). She had been granted a period of leave to remain from 12 August 2014 to 12 February 2017 after a refusal of her application (3 September 2013) had subsequently been allowed on appeal. It does not appear to be disputed that the First-tier Judge allowed that appeal but had done so on the basis that (as Judge Traynor writes)

A period of leave should be granted to the appellant to allow her to have her work marked because, by then she had already completed five marked assignments and it was considered it would be open to her to have her work marked and resume her studies elsewhere.

The Secretary of State's contention is that it was always the intention of the appellant to resume and complete her studies and remain in the United Kingdom for no other purpose. That contention does not appear to have been disputed by the appellant. However, when she was granted leave to remain following her successful appeal to the First-tier Tribunal, she sought to rely upon the contents of the Secretary of State's letter to her of 12 August 2014 granting her further leave to remain. In accordance with Home Office practice, the appellant had been granted 30 months of leave following the success of her appeal before the First-tier Tribunal. The respondent's letter indicated that she could "apply to renew this leave she may become eligible to apply for indefinite leave to remain (settlement) after 120 months if you qualify". The appellant was to not to seek public funds but there was no restriction of her right to work during the period of leave. Referring to this letter, the appellant argued before the First-tier Tribunal that she had a legitimate expectation that she will be able to apply for leave with a view ultimately to gaining settlement and also that she was not required to study was able to work. The judge had been told by the appellant that she could not continue her studies because she could not afford the fees.

4. At [43], the judge wrote that "what is immediately apparent to me is that once the appellant was granted leave to remain in August 2014 she interpreted that letter as entitling her to work on a full-time basis, did not require her to complete her studies." The judge found it was "implicit in the grant that it reflected the decision of both First-tier and Upper Tribunals that the appellant should be granted limited leave to remain in order to complete her studies which she has not done".
5. In her appeal to the Upper Tribunal, the appellant contends that she was entitled to rely upon the grant of leave in 2014 as enabling her to work and abandon her studies and further to enjoy the legitimate expectation ultimately for settlement. This is, in essence, the same argument which was put before Judge Traynor but rejected by him.

6. I find that the judge was right to conclude that the appellant enjoyed no such legitimate expectation. The appellant had been granted a period of leave to remain (as all parties agree) because she wished to complete her studies. She would have had no other reason whatever for succeeding before the Tribunal. While she has not broken the law by working, she has circumvented the entire purpose of the grant of leave to her. The respondent's letter granting leave did not wipe away that reason for the grant; not surprisingly, it was couched in standard terms for a grant of leave outside the Rules of 30 months. Further, as Judge Traynor points out at [51] "had the appellant sought to pursue studies ... such evidence would have been taken into account as proof of the appellant's respect for the acknowledgement of UK law and the basis upon which she had been granted further leave to remain". The appellant had taken "a conscious decision not to pursue her studies but rather to work". I find that the only legitimate expectation which the appellant could enjoy following previous Tribunals allowing her appeal is that the Secretary of State, in response to that decision, would grant her a period of leave to complete her studies. She could have no legitimate expectation of being given a period of leave which, divorced entirely from the purpose for that leave, would lead to settlement.
7. Once any possibility of the appellant having a legitimate expectation of being granted further leave is removed, her case is left entirely without merit on Article 8 ECHR grounds. She has no family life in the United Kingdom. She has a private life which the judge has addressed in his decision but found not to amount in compelling circumstance such that her appeal should be allowed on Article 8 grounds. In essence, the appellant has a private life which she can reasonably continue in her country of nationality; it need not be pursued in the United Kingdom. Further, the public interest concerned with those who seek to circumvent the United Kingdom's immigration laws and Regulations is significant. The appellant herself has never argued that she should be in this country for any other reason than as a student studying here. The application for leave to remain which is the subject of this appeal is dealt with entirely correctly by the Secretary of State on the basis of the appellant's family and private life here and Judge Traynor did not err in law when he dismissed her appeal for the reasons he has given in his decision.

### **Notice of Decision**

This appeal is dismissed.

No anonymity direction is made.

Signed

Date 10 January 2019

Upper Tribunal Judge Lane

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 10 January 2019

Upper Tribunal Judge Lane