



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/03644/2019

**THE IMMIGRATION ACTS**

Heard at Field House  
On 3 September 2019

Decision & Reasons Promulgated  
On 16 September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

V A O (GHANA)  
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr M Karnik, Counsel instructed by City Wide Solicitors

For the Respondent: Ms S Jones, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals from the decision of the First-tier Tribunal (Judge Brewer sitting at Taylor House on 16 May 2019) dismissing her appeal against the refusal of her protection and human rights claims in which she maintained that she had a well-founded fear of persecution on return to Ghana at the hands of the in-laws of her deceased husband, either because she would be forced to undertake degrading tribal burial rituals as his widow or because she was liable to be killed by her in-laws who believed that she was responsible for her husband's death through witchcraft. Judge Brewer found that the appellant faced persecution in her former home area in Ghana

(the village where she had lived with her husband), but that there would be sufficiency of protection for her elsewhere in Ghana, and that internal relocation was a reasonable option.

### **The Reasons for the Grant of Permission to Appeal**

2. On 7 July 2019 First-tier Tribunal Judge Caroline Andrew granted the appellant to appeal for the following reasons: *“I am satisfied that there is an arguable error of law in the decision in that the Judge may have come to incorrect conclusions as to the ability of the appellant to relocate safely given her name, being the name of her late husband, and taking into account that she might have to take part in burial rituals which may amount to persecution.”*

### **Relevant Background**

3. The appellant is a national of Ghana, whose date of birth is 17 December 1971. She claims that she married her late husband, “CFO”, in Ghana against the wishes of both their families in the year 2000. During their marriage, she said that her late husband’s family mistreated her when she was living in their house. Her husband worked for Ghana Airways as a caterer, and he brought her to the United Kingdom in 2003 for a visit. She went back with him to Ghana for a short period. They then both returned as visitors, but her husband left her behind in the UK and returned to Ghana alone.
4. As evidenced by a certified copy of a death certificate, the death of ‘CFO’, a Ghanaian national aged 37 years, was registered on 8 January 2007. The informant was CFO’s brother. CFO was recorded as residing at OSU Accra, and his occupation was said to be that of a caterer. He had died in hospital on 2 January 2007 due to a large bowel obstruction, as certified by a qualified medical practitioner. He was buried in OSU Cemetery, Accra.
5. In her screening interview conducted on 7 June 2018, the appellant said that she had been born in Accra, and that her main language and dialect was Ada. Her occupation in her home country was assisting her husband who was a chef. Her husband had brought her to the UK because both families were fighting the marriage. She was asked to explain briefly all the reasons why she could not return to her home country. She said that when her husband died, his family said she had killed him, and they said that they would kill her if she went back. They would also make her do some unlawful rituals because he was not supposed to marry her and *“he died in my house.”* They also said that she had used witchcraft to kill him.
6. On 20 November 2018 the Secretary of State gave his reasons for refusing the appellant’s protection and human rights claims. It was accepted that she had produced a death certificate for her late husband, and that she was from the Ada tribe. Her account of her and her late husband marrying against the wishes of his family, and of her receiving threats from the family of her late husband, was not accepted due to various asserted internal discrepancies. Despite the fact that she said that his family were against the match, instead of trying to create a distance between

them both, she also said that they had hired her as a maid to work in their house. Given the claimed views of her in-laws, it was inconsistent that they did not take any steps to arrange a proxy marriage for their son to a different woman. She said that her late husband's family had power and influence in Ghana, but she also said that her husband had had to support his family financially.

### **The Hearing Before, and the Decision of, the First-tier Tribunal**

7. Both parties were legally represented before Judge Brewer. The Judge received oral evidence from the appellant and three supporting witnesses.
8. In his witness statement, which he adopted as his evidence in chief, 'DA' said that he had travelled back to Ghana to pay his respects a few days before CFO's funeral rites and burial. The appellant's absence at the funeral was not taken lightly. Some members of the immediate family openly stated how she had caused CFO's demise, and it became clear that they wished to subject her to a period of hardship and deprivation.
9. In her statement signed on 8 May 2019, which she adopted as her evidence in chief, 'GH' said that she had gone to Ghana for a Church conference and for a funeral in the village in June 2018. She overheard a discussion about a lady in London who killed her husband and was hiding in the UK and running away from her punishment. One of the group then asked her whether she knew VAO. She said that she did, but refused to give VAO's telephone number to the man. On her return, she told the appellant about what she had overheard in the village and she had since been providing her with counselling.
10. In his subsequent decision, Judge Brewer found the appellant not credible in her account of the issues that she claimed to have faced before she came to the UK. Of particular difficulty was her evidence about the marriage. On the appellant's account, her rich and powerful family objected to their son marrying the appellant. But despite this, they were in fact powerless to prevent it and allowed the couple to share their home: "*This is at best self-contradictory.*" The Judge went on to find that the appellant's evidence of what happened prior to her husband's death was wholly lacking in credibility, particularly in relation to the rather romanticised account of their marital relationship, given what occurred in 2004 - the husband returning to Ghana alone and the couple never seeing each other again prior to his death in 2007.
11. However, the Judge accepted that there was corroborative evidence in respect of the threats said to have been made following the husband's death. At paragraph [35], he referred to the evidence of each of the three supporting witnesses. It would seem that traditional beliefs in witchcraft as a means to do harm remained strong in Ghana, and that this was what was believed to account for the early death of the husband. Thus, he accepted that for a number of years the family of the appellant's late husband had been threatening to do her harm and to kill her, as they held her responsible for her husband's death.

12. At paragraph [39], the Judge turned to address the issue of relocation. The appellant feared that she would be found if she was returned to Ghana, as her husband's family was rich and influential. He accepted that the family was wealthy and "*locally influential*". However, there was no evidence that the family had significant influence over the country as a whole, which had a population of over 30 million spread over a land area of over 92,000 square miles. The Judge continued:

"The witness GH said that the family name, which the appellant has retained, is well known. However, many people who are entirely unconnected with wealthy families share their name. The sharing of a name does not connote any connection. The evidence as to influence was vague. The appellant stated that the family are the new members of the Armed Forces and the Police, or some family members who are in the police - she was unclear about this. The Ghanaian state has a fully functioning police force. It is described in detail in the refusal letter and I do not need to repeat that here. Ms Delbourgo does not take issue with this. She merely relies on the vague references to the family having influence. The objective evidence suggests that the police do offer sufficient protection."

### **The Hearing in the Upper Tribunal**

13. At the hearing before me to determine whether an error of law was made out, Mr Karnik, who did not appear below, developed the two grounds of appeal which he had pleaded in the permission application. In reply, Ms Jones submitted that the First-tier Tribunal Judge had directed himself appropriately, and no error of law was made out.

### **Discussion**

14. Ground 1 relates to the Judge's findings at paragraph [39]. Firstly, Mr Karnik submits that the Judge engaged in impermissible speculation in holding that the sharing of a name that does not connote a connection. Secondly - and in the alternative - he submits that the fresh evidence attached to the permission application shows that all persons bearing the "O" surname belong to "*the same family or tribe*"; and the name system makes it easier for the "O" chief to remember "*the family relations*". On this basis, he submits that the Judge made a material mistake of fact which had a material bearing on the outcome.
15. The fresh evidence adduced by way of appeal shows that over 27,000 people in Ghana share the "O" surname. So, I do not consider the fresh evidence demonstrates a material error of fact on the part of the Judge.
16. It was not part of the appellant's case in the evidence assembled for the hearing that the retention of her married surname was going to make it easier for the in-laws to locate her wherever she went in Ghana. As indicated by the Judge at paragraph [39], he was responding to GH's oral evidence that the appellant's family name was well known. There is a crucial difference between having a rare name which is well known and having a common name which is well known. The Judge appears to have understood GH to be saying that GH's name fell into the latter category, not the

former one. It has not been shown that the Judge's understanding was wrong. It was open to the Judge to find that the mere fact that the appellant shared the same family name as her in-laws would not of itself denote a specific connection between them as opposed to her having a potential connection with anyone in Ghana who bore the same family name.

17. The third way in which Mr Karnik puts the case under Ground 1 is that the Judge failed to have regard to the evidence of GH, and in effect he ought to have accepted her evidence as to the ability of the in-laws to find the appellant wherever she went in Ghana. However, while the Judge found GH credible in her account of what happened when she visited the appellant's home village in 2018, it does not follow that the Judge was bound to accept her evidence on the issue of the viability of internal relocation. GH was not a disinterested or independent witness. She was not giving evidence as a country expert. There was nothing in her witness statement to indicate that she had the requisite knowledge to give an objective opinion as to the extent of the in-laws' influence. She expressly put herself forward in her witness statement as someone who was providing the appellant with counselling. She was an advocate for the appellant, not an impartial county expert.
18. GH said that she had known the appellant for about five years since she had started visiting and worshipping at a church in London where she was a Pastor. She had found out that the appellant came from the same area as her in Ghana, which was Ada. GH's witness statement gave no information as to how long she had been habitually residing in the UK, or how frequently she had returned to the village in Ghana since settling in the UK.
19. For the above reasons, it was fully open to the Judge to reject GH's opinion as to the appellant's ability to safely relocate elsewhere in Ghana.
20. The fourth way in which Mr Karnik puts the case under Ground 1 is that the Judge had made an irrelevant finding that Ghana had a fully functioning police force when the police were either unable or unwilling to provide protection in the appellant's home area. I do not consider that the Judge's reasoning was illogical. He accepted that the in-laws had local influence in their home area. Accordingly, if the appellant returned to the village, there was a risk of ill-treatment at the in-laws' hands before the police had the opportunity to intervene and/or because the local police would allow the in-laws to force the appellant to undergo a period of hardship and deprivation and/or a degrading tribal burial ritual. Conversely, where the in-laws did not have influence - which was in the rest of Ghana - it was open to the Judge to find that the appellant would be able to access sufficiency of protection from the police in the locality where she was residing.
21. Ground 2 relates to the Judge's finding at paragraph [48] that there are not significant obstacles to the appellant's reintegration into Ghana in the light of his findings on the protection claim. Mr Karnik submits that the Judge erred in law in treating Rule 276ADE(1)(vi) as coterminous with the test for the reasonableness of internal relocation. Citing Kamara -v- SSHD [2016] EWCA Civ 813, he submits that the

question of integration requires a broader evaluative judgment of whether the appellant would be able to operate on a day-to-day basis in society and to build up within a reasonable time a variety of human relationships to give substance to her private or family life.

22. I consider that the findings of fact made by the Judge at paragraphs [40] and [41] are sufficient to show that the **Kamara** test is met, and that no error of law is made out. The Judge did not find the appellant credible in her evidence that she was not working in the UK as a Cook. He found that the appellant would be able to support herself in Ghana through gainful employment. He also found that the appellant could *“easily relocate to Ghana in the same way that she had successfully relocated to the UK”*. There were no language or cultural difficulties, and he noted that, under the law of Ghana, women had equal rights, including freedom of movement.

### **Notice of Decision**

The decision of the First-tier Tribunal did not contain an error of law, and accordingly the decision stands. This appeal to the Upper Tribunal is dismissed.

### **Direction Regarding Anonymity**

Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 12 September 2019

Deputy Upper Tribunal Judge Monson