



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/00663/2019**

Appeal Number:

THE IMMIGRATION ACTS

Heard at George House, Edinburgh

**Decisions & Reasons
Promulgated**

On 18th November 2021

On 24th November 2021

Before

UT JUDGE MACLEMAN

Between

ABIOLA SHAKI AJINIRAN

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors

For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge P A Grant-Hutchison dismissed the appellant's appeal by a decision promulgated on 15 August 2019.
2. By an application dated 21 August 2019, the appellant sought permission to appeal to the UT.

3. The essence of the grounds is as follows:
 1. Error of legal approach to the significance to be given to a lie; placing too much weight on one element of the claim, the appellant's claimed adoption by a priest, which was considered to be untrue.
 2. Perversity in finding at [24] no breach through removal to Afghanistan, when the appellant is from Nigeria.
 3. Failure to consider the article 8 claim in terms of the immigration rules, "very significant obstacles" to her (re)integration in Nigeria.
4. FtT Judge Parkes granted permission on 15 July 2021: ...
 3. ... the reference to Afghanistan ... is a typing error and not material ... The appellant's account was not simply rejected because the account of adoption had been rejected. The reasons ... suggested a wider problem with credibility ... and additional reasons were given ... including the account of the priest owning a farm and not disclosing it.
 4. It is arguable that the Judge may have erred on the appellant's ability to return to Nigeria, paragraph 276ADE [of the rules] was not specifically addressed, and an analysis of her personal circumstances was required. Whether this ultimately avails the appellant remains to be seen but the point is arguable, all grounds may be argued.
5. Although the grant of permission is on all grounds, its substance reads as if it was intended to be on ground 3 only. Mr Diwyncz did not seek to argue that it was effectively a restricted grant. I indicated to Mr Martin that all grounds were open to him. However, he said (realistically) that having considered the terms of the grant, he had little to add to ground 1, and he accepted that ground 2 was based on no more than a typographical error.
6. On ground 3, Mr Martin accepted that the FtT could not have held that the appellant met all private life requirements of the rule, because she is far short of the period of residence required. However, he submitted that the Judge should nevertheless have considered the other elements of the rule, and in particular whether there were "very significant obstacles" to her (re)integration in Nigeria, which represented the essence of her case on private life grounds. The matter was put in the skeleton argument and in oral submissions in the FtT, with reference to the supporting evidence, including medical reports. The absence of analysis in terms of private life was a material error of law.
7. I did not need to hear from Mr Diwyncz on grounds 1 and 2.
8. Ground 1 incorrectly suggests that the decision on credibility had one element only. It does not fairly represent the reasoning as a whole. Ground 2 has been effectively abandoned.
9. Mr Diwyncz referred to the Judge's consideration of part 5A of the 2002 Act, but he (also realistically) acknowledged that there was no counter to ground 3, and that there was an omission in the decision.

10. Representatives agreed that the case was apt to be remitted to the FtT, where there was likely to be updating of the evidence, and that there was no reason for it not to go back to the original Judge.
11. The decision of the First-tier Tribunal is set aside, to the extent explained above. The case is remitted to the FtT to complete its decision-making on the human rights grounds. It should be listed before Judge P A Grant-Hutchison; but if that course is impractical, for any reason, it may be listed before any other FtT Judge.
12. No anonymity direction has been requested or made.



18 November 2021
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
 2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
 3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
 4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.