



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

Appeal Number: DA/01689/2013

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**THE IMMIGRATION ACTS**

Heard at: Field House

Decision Promulgated:

On: 4 June 2014

On: 05 June 2014

Before

**Upper Tribunal Judge Pitt**

Between

**Secretary of State for the Home Department**

Appellant

and

**Robert Edokpolor**

**Gladys Edokpolor**

Respondent

Representation:

For the Appellant: Mr Saunders, Senior Home Office Presenting Officer

For the Respondent: Mr Nkafu, instructed by Julliz Solicitors

## **DETERMINATION AND REASONS**

1. For the purposes of this determination I refer to the Secretary of State as the respondent and Mr and Mrs Edokpolor as the appellants, reflecting their positions before the First-tier Tribunal.
2. The appellants are nationals of Nigeria. Mr Edokpolor was born on 12 August 1940 and Mrs Edokpolor was born on 8 August 1946.
3. This is an appeal by the respondent against the determination promulgated on 19 February 2014 of First-tier Tribunal Judge Youngerwood and Ms Endersby which allowed the appellants' appeals against the respondent's decision of 17 July 2013 to refuse to revoke deportation orders.
4. The relevant undisputed facts in relation to the matters argued before me were that deportation orders were signed against the appellants on 14 March 1978 and they were deported to Nigeria on 1 June 1984. Mrs Edokpolor was issued with entry clearance as visitors in 2006 and returned to Nigeria. Further applications in 2007 and 2010 for visit visas were refused. Mr Edokpolor was refused a visit visa in 2007 and his appeal against the refusal was not successful.
5. The First-tier Tribunal considered the appeal against the provisions of paragraphs 390, 391 and 391A of the Immigration Rules. These state as follows:
  390. An application for revocation of a deportation order will be considered in the light of all the circumstances including the following:
    - (i) the grounds on which the order was made;
    - (ii) any representations made in support of revocation
    - (iii) the interests of the community, including the maintenance of an effective immigration control;
    - (iv) the interests of the applicant, including any compassionate circumstances.
  391. In the case of a person who has been deported following conviction for a criminal offence, the continuation of a deportation order against that person will be the proper course:
    - (a) in the case of a conviction for an offence for which the person was sentenced to a period of imprisonment of less than 4 years, unless 10 years have elapsed since the making of the deportation order, or
    - (b) in the case of a conviction for an offence for which the person was sentenced to a period of imprisonment of at least 4 years, at any time,

Unless, in either case, the continuation would be contrary to the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees, or there are other exceptional circumstances that mean the continuation is outweighed by compelling factors.

391A. In other cases, revocation of the order will not normally be authorised unless the situation has been materially altered, either by a change of circumstances since the order was made, or by fresh information coming to light which was not before the appellate authorities or the Secretary of State. The passage of time since the person was deported may also in itself amount to such a change of circumstances as to warrant revocation of the order.

6. The First-tier Tribunal panel noted that paragraph 391 stated 10 years to be the normal course for continuation of a deportation order in relation to these appellants whose criminal offences were relatively minor and that paragraph 391A allowed for the passage of time in itself being capable of amounting to a change of circumstances such that revocation was warranted. As over 35 years had elapsed since the making of the deportation orders, the panel found at [18] and [19] that the deportation orders should be revoked.
7. The grounds of appeal argued that the First-tier Tribunal had not given adequate reasons as to why the appellants' circumstances had materially altered. Mr Saunders did not take that point any further at the hearing and I can simply indicate that the passage of 35 years was clearly sufficient to amount to a material change on which the First-tier Tribunal was entitled to place weight.
8. The second ground maintained that the First-tier Tribunal did not take proper account of the appellants' "blatant disregard for immigration laws", referring, amongst other matters, to the allegation in the refusal letter that the second appellant overstayed her visa in 2007 and relied on a false boarding pass to conceal this when reapplying for entry clearance.
9. I did not find that ground had merit as the First-tier Tribunal took into account the appellants' immigration breaches at [18] and [19] but found that they were outweighed by the very long time that had passed since the deportation orders were made. Even had the panel failed to take aspects of the immigration history into account I did not find, given the extended period since the deportation orders were made and the provisions of the Immigration Rules set out above that the failure could have been material here. I also note in passing that the allegation concerning the boarding pass appears to have remained just that, there being no evidence adduced by the respondent on that matter in the materials before me.
10. I therefore did not find that the determination of the First-tier Tribunal disclosed an error on a point of law. As indicated by the First-tier Tribunal this

decision does not afford the appellant's any right to come to the UK, merely the opportunity to apply for entry clearance when their history and current circumstances will again be subject to scrutiny by the UK immigration authorities.

DECISION

11. The decision of the First-tier Tribunal does not contain an error on a point of law and shall stand.

Signed:   
Upper Tribunal Judge Pitt

Date: 4 June 2014