



IAC-YW-LM-V1

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

Appeal Numbers: IA/14232/2014  
IA/14246/2014  
IA/14252/2014  
IA/14257/2014  
IA/14264/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 7 October 2014**

**Determination**

**Promulgated**

**On 23 October 2014**

**Before**

**UPPER TRIBUNAL JUDGE PITT  
DEPUTY UPPER TRIBUNAL JUDGE GIBB**

**Between**

**OLANREWAJU TAIWO OLUMUYIWA  
EYOANWAN ESTHER OLUMUYIWA**

**ANUOLUWAPO DAVID OLUMUYIWA  
OLUWANIFEMI ESTHER OLUMUYIWA**

**OLUWATONI EMMANUEL OLUMUYIWA  
(NO ANONYMITY ORDERS MADE)**

First Appellant

Second

Appellant

Third Appellant

Fourth

Appellant

Fifth Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellants: Mr M Bhebhe, of Njomane Immigration Law Practice

For the Respondent: Mr T Wilding, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants, all of whom are Nigerian citizens, are a family consisting of a married couple and their three children. The first appellant has been in the UK as a student since 2009, and his wife and three children joined him at the end of 2010. The first appellant had leave for post-study work until 2012, and then obtained further leave as a Tier 2 Minister of Religion. When his position ended, and his leave was consequently curtailed, the family applied for leave to remain on human rights grounds, with reference to Articles 3 and 8 of the European Convention on Human Rights.
2. Following a hearing on 15 May 2014 the appeals were dismissed by First-tier Tribunal Judge Ferguson, in a determination promulgated on 26 June 2014.
3. Following the submission of lengthy and unfocused grounds, permission to appeal was granted by First-tier Tribunal Judge P J G White, on 11 August 2014. Permission to appeal was granted on the basis that it was arguable that the judge had not made a clear finding as to whether removal would amount to an Article 8 breach. A Rule 24 response responded making the point that the judge had made such a clear finding at paragraphs 32 and 33 of the determination. The Rule 24 response went on to make the point that the family would be removed as a unit, that all were now without leave following the end of the first appellant's employment as a Minister of Religion, that the appellants had been in the country for five years or less, in the case of the first appellant's wife and children, and any private life ties were developed at a time when their immigration status was precarious, since they were temporary migrants.
4. At the start of the hearing we indicated to Mr Bhebhe, for the appellants, that our preliminary view, having read the papers, was that there was no legal error in the judge's approach. We gave Mr Bhebhe every opportunity to develop any legal argument, either with reference to the lengthy grounds, or with reference to the issue identified by the judge who granted permission to appeal, but he was unable to mount a coherent legal argument as to how or why the judge could be said to have erred in law. Insofar as any clear points emerged they were that the medical matters had been dealt with improperly; that there were inadequate explanations for findings reached; and that paragraphs 32 and 33 of the determination did not include an explanation of how the judge had proceeded in his reasoning process. Mr Bhebhe also mentioned that the judge had not detailed how the appellants failed to meet the Immigration Rules, despite accepting that this had been conceded on their behalf at the hearing.
5. Mr Wilding, for the respondent, made brief submissions pointing out that the judge had dealt, at paragraph 24, with the reasons for the appellants not meeting any of the requirements of paragraph 276ADE, and had also looked at the nature and extent of the ties established by the children. It

had also not been specified what in the Immigration Rules might be of relevance.

### **Decision and Reasons**

6. We have decided that no error of law has been established, and that there is therefore no basis to disturb the judge's decision dismissing the appeals.
7. As we have said, the grounds seeking permission to appeal were poorly drafted and lacked focus. The judge granting permission to appeal did not refer to any of them, perhaps for this reason. Although we gave Mr Bhebhe ample opportunity to make oral submissions, nothing that was said at the hearing came close to identifying any arguable point arising from the grounds. As a result it remained the case that the only clearly identifiable point was that mentioned by the permission judge, and addressed in the Rule 24 response.
8. Nothing that was said at the hearing altered our initial view, which was that the judge did make a clear finding, which was adequately reasoned in his determination, that the proposed removal of the family would not amount to an Article 8 breach. On a proper reading of the determination as a whole it appears to us that there is nothing in the point identified at the permission stage.
9. In our view this was a careful determination, which dealt with the issues fully and properly. The best interests of the children were considered appropriately, as a primary consideration. The issue of the kidnap fears, and the account of a past attempt at kidnap, were the subject of adequately reasoned findings, which were open to the judge on the evidence before him. The judge gave careful consideration to the subjective fears of one of the children. The judge's decision that the circumstances did not establish a risk on return on Article 3 grounds was clearly open to the judge on the evidence before him. At paragraphs 32 and 33 the judge appears to us to have set out the key elements to be considered in an Article 8 proportionality assessment focusing on the private life ties of the family, and the outcome of that assessment was also one that was clearly open to him.
10. Despite the current difficulties in achieving clarity about the nature of the law on Article 8, and the relationship between Article 8 and the Immigration Rules, no argument was put forward that the judge had not conducted the Article 8 assessment within the correct legal framework. In any event, in our view, what stands out from the determination is that the judge gave a full, clear, and well reasoned assessment engaging with the particular facts, both in relation to the risk on return arguments, and in relation to the Article 8 private life arguments.

11. Anonymity directions were not made at the First-tier, and neither side suggested that there was any such need before us. No issue of fee awards arises.

**Decision**

12. The appeals are dismissed. Since no error of law has been established the judge's decision remains undisturbed.

Signed

Date

Deputy Upper Tribunal Judge Gibb

23 October 2014