



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/11151/2014

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Bennett House,
Stoke
On 12 August 2015**

**Decision and Reasons
Promulgated
On 14 August 2015**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**FI
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bloomer (Counsel)
For the Respondent: Mr McVeety (Home Office Presenting Officer)

DECISION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an anonymity order. Unless the Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

1. The appellant is a citizen of Nigeria. I have anonymised this decision as it refers to her asylum claim and her minor children.

Procedural history

2. In a decision promulgated on 30 April 2015 the First-tier Tribunal dismissed the appellant's appeal against a decision to remove her, having accepted that her children are at risk of female genital mutilation in her home area but that they could internally relocate. The Judge also considered the best interests of the children but found that the removal of the family would not constitute a breach of Article 8 of the ECHR.
3. In a decision dated 23 June 2015 Upper Tribunal Judge Renton granted permission to appeal on the basis that the First-tier Tribunal had arguably erred in law in referring to the appellant's partner as her husband throughout the decision.
4. The matter now comes before me to determine whether or not the decision contains a material error of law.

Hearing

5. Mr Bloomer acknowledged that the decision is a comprehensive and detailed one but submitted that in failing to appreciate that the appellant's partner was not her lawful husband the Judge failed to take into account that he would not be able to provide the protective mechanisms said to obviate the undue harshness in the family's relocation.
6. Having heard fully from Mr Bloomer, I indicated to Mr McVeety that I did not need to hear from him as I would be dismissing the appeal. I now provide my reasons for doing so.

Error of law discussion

Husband

7. I deal firstly with the ground of appeal that formed the basis of the grant of permission and Mr Bloomer's oral submissions. It cannot be disputed that the Judge referred to the appellant's partner as her husband throughout his decision. I am satisfied that whilst this is mistaken, it has caused no unfairness whatsoever to the appellant and cannot be said to be a material error of law. The appellant herself referred to her partner as her husband (see her answers to Qs 24-27 of the interview) and clearly regarded him to be her husband even though they are not legally married. He is the father of her three children and named as such on each birth certificate. Indeed it is likely that the Judge knew that the appellant was not married but referred to her partner as her husband in the same manner that the appellant had been doing. The appellant pointed out during the hearing that she was not

actually married to her partner and this is recorded by the Judge at [15].

Other grounds of appeal

8. Although Mr Bloomer did not expand upon the two other grounds of appeal I address these for the sake of completeness.
9. I do not accept that the Judge failed to take into account the appellant's uncle's position. The Judge was aware of and recorded this submission [20] and was entitled to find that the family could safely internally relocate for the reasons provided [39-40].
10. The Judge expressly considered the best interests of the children [58]. There was no need to consider each specific child in the circumstances of this case: the children are all young and there was no material evidence to differentiate between them and to undermine the Judge's finding that there was nothing to prevent them from returning to Nigeria with both of their parents.

Decision

11. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law and I do not set aside the decision.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
13 August 2015