



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/52345/2013**

THE IMMIGRATION ACTS

**Heard at Field House, London
On 26 March 2015**

**Determination Promulgated
On 27 March 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

AMANDA AGYEI MINTAH

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Gibson-Lee, instructed by Jesuis Solicitors

For the Respondent: Mr S Kandola, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, a national of Ghana, appealed to the First-tier Tribunal against the decision of the Secretary of State to refuse her application for leave to remain in the UK. First-tier Tribunal Judge Beach dismissed the appeal and the appellant now appeals with permission to this Tribunal.
2. The appellant's case is that she entered the UK in August 2007 with leave to enter as a visitor. She joined her mother who had entered the UK in 2001 to join her husband, the appellant's stepfather, who is a British national. On 8 September 2010 the appellant was granted discretionary leave to remain as the step child of a British national until 8 September 2013. The respondent refused the current application for the

reasons set out in the reasons for refusal letter which states that the application for discretionary leave was refused because at the time of the application the appellant was living independently, attending a college course and had a job offer. Although she claimed that her mother was supporting her it was said that she provided insufficient evidence of this. As she was leading an independent life the respondent refused her application for discretionary leave to remain. The respondent considered her application under paragraph 276ADE of the Immigration Rules and did not accept that the appellant could meet the requirements of paragraph 276ADE (vi).

3. The First-tier Tribunal Judge noted that although the appellant's mother was said to have appealed against a decision to refuse her application for leave to remain her appeal had not been processed because of an issue regarding payment of the fee and she therefore decided that it was not appropriate to join the appeals. The First-tier Tribunal Judge heard oral evidence from the appellant and her mother. It is not in dispute that the relevant version of paragraph 276ADE for the purposes of this appeal was that in force between 9 July 2012 and 27 July 2014 and thus at the date of the decision which provided;

“**276ADE.** The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:

...

(vi) is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK.”

4. The Judge considered this provision at paragraph 29 of the determination and found that the appellant had not shown that she had no ties in Ghana. The grounds of appeal to the Upper Tribunal complain that the Judge erred in failing to follow the approach set out by the Upper Tribunal in the case of Ogundimu (Article 8 - new rules) Nigeria [2013] UKUT 00060 (IAC). There the tribunal was considering the ‘no ties’ provision of paragraph 339A of the Immigration Rules and concluded;

“122. We take note of the fact that the use of the phrase “no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK” is not exclusive to paragraph 399A of the Rules; it is also used in paragraph 276 ADE, in the context of the requirements to met by an applicant for leave to remain based on private life in the United Kingdom when such person has lived in the United Kingdom for less than 20 years.

123. The natural and ordinary meaning of the word ‘ties’ imports, we think, a concept involving something more than merely remote and abstract links to the country of proposed deportation or removal. It involves there being a continued connection to life in that country; something that ties a claimant to his or her country of origin. If this were not the case then it would appear that a person's nationality of the country of proposed

deportation could of itself lead to a failure to meet the requirements of the rule. This would render the application of the rule, given the context within which it operates, entirely meaningless.

124. We recognise that the text under the rules is an exacting one. Consideration of whether a person has 'no ties' to such country must involve a rounded assessment of all the relevant circumstances and is not to be limited to 'social, cultural and family' circumstances. Nevertheless, we are satisfied that the appellant has no ties with Nigeria. He is a stranger to the country, the people, and the way of life. His father may have ties but they are not ties of the appellant or any ties that could result in support to the appellant in the event of his return there. Unsurprisingly, given the length of the appellant's residence here, all of his ties are with the United Kingdom. Consequently the appellant has so little connection with Nigeria so as to mean that the consequences for him in establishing private life there at the age of 28, after 22 years residence in the United Kingdom, would be 'unjustifiably harsh'.

125. Whilst each case turns on its own facts, circumstances relevant to the assessment of whether a person has ties to the country to which they would have to go if they were required to leave the United Kingdom must include, but are not limited to: the length of time a person has spent in the country to which he would have to go if he were required to leave the United Kingdom, the age that the person left that country, the exposure that person has had to the cultural norms of that country, whether that person speaks the language of the country, the extent of the family and friends that person has in the country to which he is being deported or removed and the quality of the relationships that person has with those friends and family members."

5. The grounds contend that the First-tier Tribunal Judge failed to consider the factors set out at paragraph 25 of Ogundimu. However at paragraph 29 the Judge considered the fact that the appellant arrived in the UK when she was 13 years old; she had at that time spent 13 years in Ghana; she spent her teenage formative years in the UK; she still had contact with her grandfather when she left Ghana; although it may have decreased as a result of the appellant and her mother being in the UK, the evidence from the appellant and her mother that contact with the grandfather ceased when the appellant left Ghana was not credible; the appellant and her mother were evasive in their evidence at the hearing in relation to other family members in Ghana, including step and half uncles and aunts, their evidence changed during oral evidence; the culture in Ghana will not be strange to the appellant who spent her first 13 years there; and there will be no language difficulties for the appellant in Ghana. On the basis of these findings the Judge concluded that the appellant has not lost ties with Ghana. These factors are all those set out by the Tribunal in Ogundimu and all relevant factors in considering whether the appellant has 'no ties' with Ghana.
6. Mr Kandola also relied on the decision in further note the decision of the Upper Tribunal in Bossadi (paragraph 276ADE; suitability; ties) [2015] UKUT 00042 (IAC) where the decision is summarised in head note 2 as follows;

“The requirement set out in paragraph 276ADE (vi) (in force from 9 July 2012 to 27 July 2014) to show that a person "is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK", requires a rounded assessment as to whether a person's familial ties could result in support to him in the event of his return, an assessment taking into account both subjective and objective considerations and also consideration of what lies within the choice of a claimant to achieve.”

7. Mr Gibson-Lee submitted that the appellant's grandfather is in his 90s and could not be a support for the appellant in the short or long term. However there was no evidence before the First-tier Tribunal Judge as to the grandfather's age so I do not accept that she could have taken this into account. Mr Gibson-Lee submitted that the appellant could speak but not write Twi and that the Judge therefore erred in concluding that the appellant spoke the language in Ghana. However there was no evidence before the Judge to this effect or to indicate that the appellant would have any language difficulties in Ghana. In the absence of evidence to the contrary and in light of the fact that the appellant spent the first 13 years of her life there is was open to the Judge to find that the appellant could speak the language.
8. I am satisfied that the Judge made findings of fact open to her on the evidence before her. Her findings that the appellant and her mother were not credible in relation to the familial ties in Ghana were open to her. I am satisfied that she applied the principles of the decision in Ogundimu and in considering the relevant factors the First-tier Tribunal Judge undertook a rounded assessment of the appellant's familial ties in Ghana as she was required to do. The Judge did not accept that the contact with the appellant's grandfather had ceased or could not be revived nor did she accept the evidence of the appellant and her mother set out at paragraphs 11 and 16 in relation to other family members in Ghana. These were findings open to the Judge. The Judge did not err in her consideration of paragraph 276ADE (vi).
9. The grounds of appeal to the Upper Tribunal further contend that the First-tier Tribunal Judge erred in her assessment of the proportionality of the decision under Article 8 in that she failed to examine the relationship between the appellant and her brother. However there was little evidence before the First-tier Tribunal Judge as to the relationship and no evidence from the appellant's brother or from the appellant to show the nature and depth of that relationship. In fact the Judge's finding that there is no contact and no subsisting relationship between the appellant and her brother [37] has not been challenged. The Judge did not therefore err in her consideration of Article 8.
10. Accordingly I am satisfied that the First-tier Tribunal Judge did not make an error of law in the determination of this appeal.

Conclusion:

The making of the decision of the First-tier Tribunal did not involve the making of an error on point of law.

The decision of the First-tier Tribunal shall stand.

Signed

Date: 26 March 2015

A Grimes

Deputy Judge of the Upper Tribunal