



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04835/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 3 August 2018

Decision & Reasons Promulgated  
On 23 August 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

MR T S O  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Ume-Ezeoke, instructed by Waterdenes Solicitors

For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appeal by the appellant, [TSO], against a decision of a First-tier Tribunal Judge dismissing his appeal against a refusal of asylum and also with regard to human rights issues. I need say no more about the asylum issue because permission was granted only on a rather narrow point with respect to the appellant's stepchild.
2. In relation to her the judge was satisfied that he fulfilled the role of father but then went on in considering her situation to say no more, bearing in mind that she was born in 2010, than that she was capable of being a qualifying child but as her status remained

unknown to him he said he could not speculate as to what the outcome of her mother's application for leave to remain based upon her age and time in the United Kingdom would be. The judge then said little more than that it was the best interests of the elder child, W, that she remained with her sibling and mother and it is common ground that the judge erred in assessing the situation, bearing in mind that W is not just capable of being a qualifying child but, as Mr Ume-Ezeoke says, is a qualifying child and the relevant Rules and legislation are silent on the question of any status she may or may not have to have. She is simply a child who has been in the United Kingdom for at least seven years and that is enough and there was no evaluation of whether it would be reasonable in the circumstances for him to be removed were his appeal to be unsuccessful.

3. There is also an issue about W's private life which Mr Ume-Ezeoke has referred to, that she has a private life outside her immediate family, being now 8 years old. That is a matter which, it seems, is to be argued on a rehearing and I think on balance I am persuaded that it would be appropriate for the matter therefore to go back for a full consideration of the Article 8 issue in this case, at a hearing by a different judge, at Taylor House.

### **Notice of Decision**

The appeal is allowed to the extent set out above.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.



Signed

Date: 16 August 2018

Upper Tribunal Judge Allen