



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

Appeal Number: AA/03138/2014

THE IMMIGRATION ACTS

Heard at Columbus House, Newport

**Decision & Reasons
Promulgated**

On 27th November 2014

On 2nd December 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE HARRIES

Between

**MISS RITA MOKOBIA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Lay, Counsel

For the Respondent: Mr P Duffy, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 28th November 1979 and is a citizen of Nigeria. On 20th August 2014 she was granted permission by Designated Judge of the First-tier Tribunal J M Lewis to appeal to the Upper Tribunal for the following reasons:

- (1) The appellant seeks permission in time to appeal against a decision of the First-tier Tribunal (Judge McLachlan) promulgated

on 1 August 2014 dismissing her appeal on political asylum, humanitarian protection and human rights grounds.

(2) It is arguable at this stage that the judge was influenced in assessing credibility and thus risk by a misunderstanding of a material fact which was the date of the appellant's asylum interview; that although saying at paragraph 59 that she had carefully considered the expert report and referring to it at several points she did not take into account material aspects of it; that she did not pay sufficient regard to the background evidence ; that she did not consider country guidance authority; and that at paragraphs 31 and 32 she did not reflect the explanations of the appellant. Oral argument will enable the Tribunal to assess whether any of these strictures has merit.

(3) Permission to appeal is granted.

2. The matter was accordingly listed before me for an initial hearing to determine whether the decision of the First-tier Tribunal involved the making of an error of law.
3. The appellant's immigration history is recorded by the respondent to show her entry to the United Kingdom as a visitor with valid leave on 15th April 2007. She made no applications to extend her stay until June 2010 when she made an unsuccessful application for leave to remain in the United Kingdom as the family member of an EEA national; this was refused in November 2010 with no right of appeal.
4. The appellant claimed asylum at Croydon on 11th June 2013. This was refused on 29th April 2014 and a further decision was made to remove the appellant from the United Kingdom by way of directions under section 10 of the Immigration and Asylum Act 1999. She exercised her notified right of appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 before the First-tier Tribunal.
5. During the course of submissions to me on behalf of the appellant Mr Lay sought to rely on Article 8 grounds on the basis that although not explicitly pleaded the points are Robinson obvious. He also referred to a grant of leave to the appellant until April 2015 in which circumstances Mr Duffy questioned on behalf of the respondent whether the appellant's right of appeal should be under section 83 of the 2002 Act and therefore limited to refugee grounds; there is, however, no reflection of the leave granted to the appellant in the refusal letter raising doubts about the basis of the decision. The respondent has accepted that the appellant has been a victim of trafficking and if leave had been granted on this basis Mr Duffy expressed his concern that the section 10 removal decision is not in accordance with the law.
6. Mr Duffy's view on behalf of the respondent was that the entire proceedings appear to be on the wrong footing and the legality of the respondent's decision-making is doubtful. He considered that the matter

should be remitted to the Secretary of State for reconsideration on the basis of material errors which have become evident at the hearing. Mr Duffy withdrew the opposition to the appeal previously indicated under Rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

7. The parties agreed that, with their consent under Rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the decision of the First-tier Tribunal should be set aside and remade in terms that the decisions of the respondent are not in accordance with the law so that the appellant awaits lawful decisions. I considered this to be appropriate and accordingly make the order requested to dispose of the proceedings.

Notice of Decision

8. With the consent of both parties, under Rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the decision of the First-tier Tribunal is set aside and is remade in terms that the decisions of the respondent are not in accordance with the law so that the appellant awaits lawful decisions.

Anonymity

No anonymity direction is made.

Signed

J Harries

Deputy Upper Tribunal Judge
Date: 2nd December 2014

Fee Award

No fee has been paid and there can accordingly be no award.

Signed

J Harries

Deputy Upper Tribunal Judge
Date: 2nd December 2014