



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/06924/2011

THE IMMIGRATION ACTS

Field House
6 March 2014

Promulgated
7 March 2014

Before
UPPER TRIBUNAL JUDGE JORDAN

Between

Folashade Taiwo

Appellant

and

The Secretary Of State For The Home Department

Respondent

RULING AND NOTICE OF ABANDONMENT

pursuant to Rule 17A (2)
of the Tribunal Procedure (Upper Tribunal) Rules 2008

1. By letter dated 27 February 2014, Kesar & Co, solicitors, on behalf of the appellant, informed the Tribunal that the Secretary of State has recognised the appellant as a refugee and has granted her leave to remain in line with her refugee status.
2. By operation of section 104 (4A) of the 2002 Act as substituted by the Immigration, Asylum and Nationality Act 2006, an appeal under section 82 (1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to remain in the United Kingdom unless subsections (4B) or (4C) applies.
3. Sub-section (4C), dealing with the Race Relations Act, does not apply.
4. Having been recognised as a refugee, sub-section (4B) cannot apply because there can be no 'up-grade appeal' on asylum grounds and the appellant will not be removed, thereby preventing a violation of his human rights.
5. Section 104 operates as a statutory disposal of the appeal which the Tribunal has no power to prevent.

6. Rule 17A (inserted from 15 February 2010) of the Tribunal Procedure (Upper Tribunal) Rules 2008 echoes the mandatory effect of the statute:

“(1) A party to an asylum appeal...before the Upper Tribunal must notify the Tribunal if they are aware that -


(b) the appellant has been granted leave...to remain in the United Kingdom...

(2) Where an appeal is treated as abandoned pursuant to section 104(4) of the Nationality, Immigration and Asylum Act, 2002...the Upper Tribunal must send the parties a notice informing them that the appeal has been treated as abandoned or finally determined.”

7. The hearing of the CMR on 18 March 2014 is vacated.
8. The hearing of this appeal on 18, 20 and 21 March 2014 is vacated.

RULING

The appellant's appeal is treated as abandoned.



ANDREW JORDAN
UPPER TRIBUNAL JUDGE
6 March 2014