



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

Appeal Numbers: AA/08170/2013  
AA/08202/2013  
AA/08201/2013

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 8<sup>th</sup> April 2014**

**Determination  
Promulgated  
On 16<sup>th</sup> May 2014**

**Before**

**UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**MS OCOC  
MISS MAOA  
MASTER AKAO  
(ANONYMITY ORDER MADE)**

Appellants

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellants: Ms Harrison instructed by Haliday Reeves Law Firm  
For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This is the appellant's appeal against the decision of Judge Saffer made following a hearing at Bradford on 14<sup>th</sup> November 2013.

**Background**

2. The Appellant is a citizen of Nigeria born on 24<sup>th</sup> April 1974. She has two children who are dependent on her appeal. She has a complex immigration history.
3. In 2006 she made an application for leave to remain on the basis that she had been in the UK since 1992. She was refused on 13<sup>th</sup> September 2008, as those who represented her had submitted false documents in her case and in other cases, and she had failed to establish the length of time that she had been here. Her former representative has since been imprisoned.
4. She submitted a further application on 2<sup>nd</sup> July 2012 on the basis of having siblings and a nephew here and because she had given birth to two children who had now spent all of their lives here. That application was refused on 21<sup>st</sup> March 2013 as neither she nor her children had been here for seven years and it was considered that she could return to Nigeria with them.
5. The Appellant then claimed asylum, saying that she had been trafficked to the UK, was refused on 12<sup>th</sup> August 2013, and it is this decision which was the subject of the appeal before Judge Saffer.
6. The judge found that there was no truth in the claim that the Appellant was trafficked and there is no challenge to his decision on the asylum claim.
7. The judge also considered the Appellant's claim that she should be allowed to remaining the UK on the basis of her Article 8 rights, albeit that she does not meet the requirement of the Rules relating to private life, nor can she qualify under paragraph EX.1. He accepted that she had established a private life here, as she has been in the UK for seven years but she had failed to establish that she was involved in her church in any meaningful way or that she had integrated herself into the British way of life and has practised a level of mendacity for many years.
8. He also considered the position of the children who had established a private life here of both six years and three years' duration. Neither were British citizens, their parents both being Nigerian, and the judge was satisfied that it was reasonably likely that they had family in Nigeria on both sides of their family. Their cultural roots were in Nigeria and any roots here were not significant. They could both continue their education in Nigeria because their mother could work and they could rely on extended family support. The judge said that the children's best interests were to be with their mother. They would not be at real risk of not going to school as she could work as a nurse or a carer and pay for them nor was there a risk of destitution or abuse.

### **The Grounds of Application**

9. The Appellant sought permission to appeal on the grounds that the judge had failed to consider the case of EB (Kosovo) v SSHD [2008] UKHL 41 and

in particular the delay in removal following the refusal of the Appellant's claim in 2006 which contributed to a significant period of residence. As a consequence the Appellant had developed closer, personal and social ties and established deeper roots in the community than she could have shown earlier. Furthermore, the sense of impermanence arising from the Appellant's precarious position had faded.

10. Permission to appeal was granted in relation to Home Office delay only by Upper Tribunal Judge Freeman on 23<sup>rd</sup> January 2014.

### **Submissions**

11. Ms Harrison relied on her grounds but it is fair to say that she recognised the difficulty which she faced in establishing an error of law in this decision given the immigration history of the Appellant.
12. Mr Diwnycz submitted that the decision should stand. He said that there was no mention of the delay in the representative's submissions on the day, according to the Presenting Officer's note, and if it had not been considered a high priority at the hearing it was not an error of law for the judge not to deal with it.

### **Findings and Conclusions**

13. The Record of Proceedings confirms the Presenting Officer's note that no mention was made of the delay point in submissions. It is therefore not surprising that the judge did not deal with it, particularly because the immigration history of this Appellant is such that it makes it difficult for her to rely on any apparent failures by the Secretary of State. She has made a number of applications in a number of different identities and, on the unchallenged findings of fact by the Immigration Judge, she knew that she was acting dishonestly. Whilst there was some delay between 2006 and 2008 by the Secretary of State, any failure by the Secretary of State to act promptly is heavily outweighed by the Appellant's own conduct.
14. In any event the grounds do not establish that the judge failed to deal with the consequences of that delay and the subsequent lack of removal. He considered the Appellant's private life and that of her children and reached the sustainable conclusion that the private life of all of them was tenuous and of limited value. The best interests of the children were properly considered, namely that they should be returned with their mother to the country of their nationality.
15. The grounds establish no error of law.

### **Decision**

16. The original decision stands. The Appellant's appeal is dismissed.

Signed

Date

Upper Tribunal Judge Taylor