



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

Appeal Number: IA/28599/2013

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 12 May 2014**

**Determination**

**Promulgated**

**On 28<sup>th</sup> May 2014**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**ADEWOYIN ADEBUKOLA YEMISI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms A Mohsin (instructed by Heath & Power Solicitors)

For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Adewoyin Adebukola Yemisi, was born on 2 August 1981 and is a citizen of Nigeria. The appellant made an application for leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant and her application was refused on 17 August 2012 with no right of appeal against that decision. However, following a review by the respondent a

further decision was taken to remove her by way of directions. That decision is dated 24 June 2013. It was against that decision that the appellant appealed to the First-tier Tribunal (Judge Robson) which, in a determination promulgated on 13 December 2013, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal. The appellant drafted the grounds of appeal herself although she was represented by Counsel at the Upper Tribunal hearing.

2. In essence, the appellant argues that the fact that she had submitted a false bank statement (from Rockshield Microfinance Limited) in support of her application was immaterial; she asserts that the "Immigration Officer... knew that I would have met all the standard requirements [of the Immigration Rules] even without the false bank statement...".
3. Granting permission, Judge Osborne went beyond that ground of appeal when at [3], he observed:

... It is an arguable error of law for the judge to have dismissed the appellant's appeal without a specific finding that someone else (other than the appellant) is responsible for the fraudulent activity (creation of the false bank statement).
4. Judge Osborne observed the Court of Appeal in *AA (Nigeria)* [2010] Imm AR 4 had held that "dishonesty or deception is needed, albeit not necessarily that of the applicant himself, to render a 'false representation a ground for mandatory refusal'." Judge Osborne considered that there was an arguable error of law that Judge Robson had made "no specific finding against any other person."
5. Before the Upper Tribunal, Ms Mohsin submitted that the judge had made an unequivocal finding at [60] that the appellant herself had not "knowingly participated in what was clearly a fraudulent activity." The judge found [61] that there was "no evidence to suggest it was she herself that initiated the creation of that document." The analysis of the appeal in respect of the Immigration Rules ends somewhat abruptly at that point as the judge goes on to consider Article 8 ECHR but it is clear from [71] that the appeal under the Immigration Rules was dismissed. Judge Robson has, therefore, clearly found that the appellant herself was not responsible for the fraudulent document. He has made no finding that any other individual was responsible. His failure to do so, submitted Ms Mohsin, constituted a material error of law. Mr Mohsin also sought to argue that the appellant had never accepted that the document in question was false.
6. I do not agree with that submission. As I told Ms Mohsin in court, it was simply not open to the appellant to argue at this stage that she had never accepted that a bank statement was a false document. Judge Robson recorded that she had not disputed that the document was false [55] whilst two firms of lawyers instructed by her had written to the respondent acknowledging (presumably on the appellant's instructions) that the document was false.

7. The Rules clearly provide that submitting a false document in support of an application will lead to the refusal of that application whether or not the applicant himself or herself has perpetrated the dishonesty. A false bank statement in this case was created by some human agency even if it was not that of the appellant herself. I do not find that it was necessary for Judge Robson to identify who had created the false document; indeed, there was scant evidence to indicate who may have created it. Whilst it was open to the judge to find that the appellant herself had not created the false document, that finding was not sufficient to save her application.
8. Finally, I find the appellant's own grounds of appeal to be without merit. If a false document is used in support of an application then that dishonesty wholly undermines it and it is immaterial whether the applicant satisfies all the other requirements of the Immigration Rules.

### **DECISION**

9. This appeal is dismissed.

Signed

Date 22 May 2014

Upper Tribunal Judge Clive Lane