



IAC-PE-SW-V1

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

Appeal Number: AA/05864/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 3<sup>rd</sup> September 2015**

**Decision & Reasons Promulgated  
On 11<sup>th</sup> September 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE LEVER**

**Between**

**MR THOMAS OLALEKAN COLE  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Pratt

For the Respondent: Miss Johnstone

**DECISION AND REASONS**

**Introduction**

1. The Appellant born on 21<sup>st</sup> June 1997 is a citizen of Nigeria. The Appellant who was present was represented by Mr Pratt. The Respondent was represented by Miss Johnstone, a Presenting Officer.

**Substantive Issues under Appeal**

2. The Appellant had claimed to enter the United Kingdom in 2006 and claimed asylum many years later on 25<sup>th</sup> February 2014. The Respondent had refused that application for asylum on 31<sup>st</sup> July 2014. The Appellant had appealed that decision and his appeal was heard by First-tier Tribunal Judge Simpson sitting at Manchester on 15<sup>th</sup> September 2014. She had refused the Appellant's appeal on all grounds.
3. Application for permission to appeal was submitted on the basis that the judge had given inadequate consideration to Article 8 in this case. Permission to appeal was granted by First-tier Tribunal Judge Gibb on 5<sup>th</sup> March 2015 on the basis that such assertion was arguable.
4. Directions have been issued directing the Upper Tribunal to firstly decide whether an error of law had been made in this case or not.

### **Submissions on behalf of the Appellant**

5. Mr Pratt confirmed his submissions related to Article 8 only. He said that the judge's considerations of such at paragraphs 36 and 37 were inadequate particularly since the Appellant had been in the UK since 2006 and had developed a private life. It was submitted that the judge had found at least plausible the Appellant's account to have been trafficked to the UK as a minor to act as an unpaid child minder and that should have been taken into account.

### **Submissions on behalf of the Respondent**

6. It was submitted that the judge's consideration was entirely adequate and reasonable in the circumstances of this case.
7. Having considered the submissions I reserved my decision to consider those submissions and the documents. I now provide that decision with my reasons.

### **Decision and Reasons**

8. The challenge to the First-tier Tribunal decision is on Article 8 grounds only. The Appellant had come to the United Kingdom in 2006. At that time he was 13 years of age. His case was that he had been trafficked to the UK from Nigeria to work as an unpaid child minder for his uncle Toby and he had worked in that capacity for some two years until he had been able to escape from his clutches in 2008 at a time when he was about 15. Although the judge had not specifically indicated whether she found the Appellant's account credible or not at paragraph 25 of the decision she referred to his account as being not implausible and further made such references in respect of plausibility concerning his account at paragraph 32. Given that the judge was obliged to consider the lower standard of proof in terms of asylum cases it is a proper inference that her use of the term plausible indicates that applying the lower standard of proof she had found sufficient credibility attaching to the Appellant's account. She had

refused international protection properly on the basis that there was no risk on return to Nigeria now.

9. As indicated above there is no challenge to her findings on asylum, humanitarian protection or protected ECHR matters.
10. In terms of Article 8 of the ECHR the judge confined that consideration to paragraphs 36 to 38 of the decision. Whilst on the face of it that may appear a somewhat brief consideration in reality that brief consideration did not amount to an error of law let alone a material error of law.
11. The fact of this case is that the Appellant had come to the UK in 2006 when he was 13. Remaining faithful to the judge's findings on plausibility the Appellant had no independent control of his actions until he was 15 when he left the home where he was being held by uncle Toby. At the age of 15 the Appellant made no efforts to claim asylum and essentially remained unlawfully in the UK making no effort to claim asylum until 2014. That claim for asylum only followed a conviction by the criminal courts in respect of an offence of fraud and the involvement of social workers from a charity. The only evidence of the Appellant's private life between 2006 and 2014 is the conviction for fraud, his account of living homeless, and his refusal to supply the authorities with the names of any alleged friends or individuals who may have assisted him during that period of time. There was no other evidence of private life advanced and none so far as can be seen within the documentary evidence presented. There was no family life in the UK discounting the presence of "uncle Toby" who it could hardly be said constituted part of the Appellant's family life even if he was a genuine relative. In those circumstances it is understandable that an overview of Article 8 would be brief. The judge had made reference to Section 117B of 2002 Act although it is accepted there was no attempt to analyse that particular aspect of statute. However it cannot be said that the judge did not have that statute in mind. Given the Appellant had no family life and given the only evidence relating to private life was significantly negative and essentially formed at a time when his position in the UK was unlawful/precarious it is extremely hard to conclude how any reasonable consideration could have reached a conclusion different to that reached by the judge in this case. She was aware of the facts and the documents before her and the conclusion reached demonstrates no material error of law.

### **Notice of Decision**

12. There was no material error of law made by the judge in this case and I uphold the decision of the First-tier Tribunal.
13. No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Lever