



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

Appeal Number: AA/08337/2014

THE IMMIGRATION ACTS

**Heard at North Shields
On 8 April 2015
Prepared on 8 April 2015**

**Determination Promulgated
On 17 April 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

**N. M.
(ANONYMITY DIRECTION)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No attendance

For the Respondent: Ms Rackstraw, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of the Cameroon who entered the United Kingdom as a visitor on 18 December 2013. She applied on 16 June 2014 for a variation of her leave on the basis that she was a refugee. That application was refused on 6 October 2014, and in consequence a removal decision was made in relation to her.

2. The Appellant appealed to the Tribunal against those immigration decisions and her appeal was dismissed by decision of Judge Buchanan, promulgated on 8 December 2014.
3. The Appellant's application to the First Tier Tribunal for permission to appeal, as drafted, raised two complaints; that the Judge had failed to adequately address her claim to be a member of a particular social group, and, that the Article 8 appeal had been dismissed summarily without adequate findings. That application was granted by Judge Levin on 9 January 2015 on the basis that although there was no merit in the first ground, the second was arguable.
4. The Respondent filed a Rule 24 Notice on 20 January 2015. Neither party has formally applied for permission to rely upon further evidence pursuant to Rule 15(2A) of the Upper Tribunal Procedure Rules 2008.
5. Thus the matter comes before me.

Adjournment

6. By Notice of Hearing dated 23 February 2015 the Upper Tribunal notified the Appellant, and her representatives, by first class post of the listing of her hearing for 8 April 2015. The Appellant's copy was sent to the only address she has ever provided to the Tribunal as her home, and the copy sent to her representative was sent to his professional address. Neither of those Notices were returned through the dead letter system, and on the evidence before me I am satisfied that service was effected thereby.
7. Neither the Appellant nor her representative attended for the appeal. No request for an adjournment was lodged, and no explanation for their non attendance was provided before the appeal was called on for hearing.
8. In the light of their non-attendance my clerk made telephone enquiry of the Appellant's representative in the application for permission to appeal. This prompted a fax confirming that he no longer represented the Appellant, and had transferred her file to the firm that he believed were her new representatives on 27 February 2015.
9. Further telephone enquiries of these representatives, a firm of solicitors, resulted in confirmation by Mr Grant (a partner in that firm) that the firm had never formally accepted instructions to act for the Appellant. Attempts to contact her to obtain her instructions, and to make an application on her behalf for Legal Aid had failed, and thus they did not act for her.

10. In the circumstances I am satisfied that the Appellant was served with notice of the hearing, and that she has failed to attend the hearing, and has failed to offer any explanation for that failure. She has made no application for an adjournment of the hearing, and no application has been made on her behalf by either of the representatives with whom she has been in contact.
11. In those circumstances I am not satisfied that the Tribunal should adjourn the hearing of the appeal of its own motion. To do so would not appear to serve any useful purpose. I am satisfied that it is appropriate to proceed with the appeal in the absence of the Appellant.

Ground 1

12. There is no grant of permission to appeal in relation to ground 1. I deal with it however for the sake of completeness. Put shortly it is entirely misconceived. The Judge rejected as untrue, for reasons that are not challenged, the Appellant's account of her reasons for claiming asylum. There were good grounds for doing so, as he explained in his decision, given the emails that were said to contain the death threats uttered against her by her husband were addressed in a name other than the one the Appellant claimed was her own. In the circumstances there was no basis left upon which the Judge could find, as the Appellant claimed, that she was a member of a particular social group at risk of persecution in the event of return to the Cameroon.

Ground 2

13. The second ground complains about the approach taken to the Article 8 appeal. As the grounds accept the Appellant had not been delivered of any child at the date of the hearing. That baby's birth was not due until January 2015. (Even if the baby had been born before the hearing, the baby would have been removed with the Appellant, and so her removal would not have had any consequence for the "family life" enjoyed with her baby.)
14. The Appellant denied any "family life" in the UK at the date of the hearing with anyone then living in the UK, in particular the father of her baby. (She must have conceived that baby in the UK.) Her Article 8 appeal could only therefore be approached at the date of the hearing on the basis of her reliance upon such "private life" as she had established since arrival in December 2013 as a visitor.
15. The Appellant had however offered no evidence to suggest that she had established a "private life" in the UK of any material consequence. In the circumstances there was no material error in the Judge's approach to the Article 8 appeal, because there was never

any merit in it. The Judge did not make express reference to ss117A-D of the 2002 Act, but it would not have assisted the Appellant if he had done so. He would have been compelled to conclude that any “private life” she relied upon had been formed whilst her immigration status was precarious, and he would therefore have been compelled to give it little weight. In the circumstances I can see no basis upon which any Tribunal properly directed could have concluded that the Appellant’s removal was disproportionate to the public interest in her removal.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 8 December 2014 contains no error of law in the dismissal of the Appellant’s appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

Signed
Deputy Upper Tribunal Judge JM Holmes
Dated 8 April 2015

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed
Deputy Upper Tribunal Judge JM Holmes
Dated 8 April 2015