



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

Appeal Number: IA/25067/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 26 February 2015**

**Decision & Reasons Promulgated
On 4 March 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE GIBB

Between

**MERCY OBODAI
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Malik, of MQ Hassan Solicitors

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Ghana, is a long-term overstayer of a visit visa. Whilst here as an overstayer she had two children, neither of whom are British citizens, who were born in the UK in 2006 and 2008. Her appeal against the refusal of an application for her and the children to have leave to remain on human rights grounds was dismissed by First-tier Tribunal Judge Cockrill, in a decision promulgated on 12 November 2014. The judge found that the children had no contact of any sort with their father, and that it would be reasonable to expect the children to leave the UK with

their mother, taking into account the ages of the children, and all of the other circumstances.

2. Permission to appeal was granted by First-tier Tribunal Judge Fisher on 31 December 2014. The grounds of appeal had raised a number of different points, but the only one mentioned in the grant of permission was that it was arguable that the judge had erred in law by considering the appeal under the post-2012 Immigration Rules, when the initial application had been made in 2011.
3. At the start of the hearing I checked with Mr Malik, for the appellant, whether he was aware of the recent Court of Appeal decision in **Singh and Khalid v SSHD [2015] EWCA Civ 74**. Since he was not I explained the relevance of the judgment, and gave him some time to read it. He subsequently accepted that this judgment meant that he could no longer pursue the time point.
4. This is because the Court of Appeal held that the pre-July 2012 law only applied to pre-2012 applications for decisions taken between 9 July 2012 and 6 September 2012. For those decisions taken after 6 September 2012 the new law, introduced as Appendix FM and paragraph 276ADE, was applicable. In this appeal the decision was taken well after 6 September 2012 (28 May 2014).
5. Mr Malik did not seek to put forward any alternative error of law challenge. He did not seek further time to consider the impact of the recent Court of Appeal decision.
6. I have looked at the determination, and also at the grounds for permission to appeal to the Upper Tribunal. It appears to me that the position taken by Mr Malik at the hearing was inevitable. The only arguable legal point in the grounds was the time point addressed above. The rest of the grounds really amount to an attempt to reargue the case, putting forward the same submissions about the reasonableness of expecting the children to leave the UK that were considered and rejected by the judge.
7. The judge placed particular emphasis on the age of the children. It is well-established that children who have spent the first seven years of their life in the UK will not have such significant ties as those, for example, that came to the UK at a young age but are involved in important examinations such as GCSEs or A-levels. The judge also paid particular attention to the fact that the appellant and the children were supported by public funds, in that they relied on local authority assistance, and he also noted that the appellant had significant family ties in Ghana, including her mother and siblings.
8. No other arguments having been put forward at the hearing to challenge the decision, and in view of the fact that the point on which permission to

appeal was granted can no longer be argued, there is no challenge to the judge's determination dismissing the appeal.

9. I have considered whether there is any need for anonymity, despite this not having been mentioned by the parties, and I can see none, despite the fact that children are involved. No issue as to any fee award arises.

Notice of Decision

10. The appeal to the Upper Tribunal is dismissed. No error of law having been shown, the judge's decision dismissing the appeal remains undisturbed.

Signed

Date **4 March 2015**

Deputy Upper Tribunal Judge Gibb