



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/19585/2016
HU/19588/2016
HU/19590/2016

THE IMMIGRATION ACTS

Heard at Field House
On 14 August 2018

Decision & Reasons Promulgated
On 29 August 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

ABOLORE [V]
[M R]
[D R]

(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Eteko (Legal Representative from IRAS & Co)
For the Respondent: Mr T Melvin (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellants who are a mother and two children. The appeals are in respect of a Decision of First-tier Tribunal Judge Buckwell promulgated on 22nd March 2018 when the appeal was dismissed.
2. The Appellants had sought leave to remain on human rights grounds shortly before the eldest child was aged 7. Both children were born in the UK. By the time the appeal

was heard the eldest child had reached the age of 8. The Judge, in his Decision, set out the mother's immigration history in that she had arrived in the UK in January 2005 as a student. That student leave was extended through until October 2008. In March 2010 she was issued with an EEA residence card but that was revoked in December 2014 because she had deployed deception in making that application. She and the children were issued with notices of removal in 2015 and the applications were then made and refused on 26th July 2016. Those were the decisions appealed against.

3. The Secretary of State considered, first of all Appendix FM for the mother and it was refused not just on eligibility grounds but on suitability grounds. That was because mother had two convictions at Woolwich Crown Court in December 2013, one for assisting illegal entry into the UK and the other for making false representations. She was sentenced to a total period of six months' imprisonment. The Secretary of State also refused the private life application of the mother under paragraph 276ADE on suitability requirements contained in paragraph 276ADE(1)(i). The children's applications were considered but, given that their mother failed, they also failed. The Secretary of State did not consider there were any exceptional circumstances justifying allowing them to remain outside of the Rules.
4. The Judge referred himself to the relevant case law including the most recent advice of Lord Justice Elias in MA (Pakistan) [2016] EWCA Civ 705 and considered the evidence, in my view, very thoroughly. It is apparent from the Decision and Reasons that the Appellant sought to resile from the convictions. It is also apparent that the Appellant was less than truthful about the family she had in Nigeria because the person to whom she had facilitated entry was her adoptive mother who has since been returned to Nigeria. they lived together in the UK before she was detained and then removed.
5. The Judge considered Article 8, given that the Appellants could not meet the requirements of the Rules, and made a number of findings. His Decision is challenged on the basis, it is argued, that he carried out an insufficient analysis of whether it would be reasonable for the children to be returned to Nigeria with their mother and that he did not properly carry out an analysis of what life would be like for them there and that he did not properly consider their best interests. I find those arguments to be wholly without merit.
6. The Judge did attach considerable weight to the behaviour of the mother. That is entirely in line with Lord Justice Elias's comments in MA (Pakistan) who said that, when considering the balancing exercise which is what Section 117B(6) requires, all of the circumstances have to be taken into account. He also said at paragraph 49 of that judgment that powerful reasons are needed to outweigh the interests of a child who has been in the UK for more than seven years. The Secretary of State's own guidance says strong reasons are required to remove a child who has been here for more than seven years. The Judge has found strong reasons in this case. Those were the mother's dishonesty, in particular in relation to. He clearly found that to be a strong reason why this family should be removed. He found the children's best interests will be served

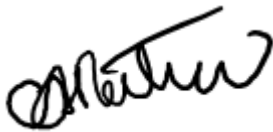
by being with their mother and that there were no serious difficulties or indeed difficulties in their integrating in Nigeria. The child that has been in the UK for more than seven years is still a young child, still in primary education. The Judge reminded himself of the decision in Azimi-Moayed [2013] UKUT 197 (IAC) in that regard. Clearly, a child in the middle of GCSEs or A levels would be in a rather different position. That was not the case here. They have family in Nigeria. The first Appellant is clearly a resourceful woman and there is no reason why they should not be able to settle in Nigeria without difficulty.

7. The Judge also took into account the very considerable amount of public finances being expended on this family to which of course they are not entitled. The recent case law and the Secretary of State's policy still does not mean a child who has been here for seven years is a trump card. The Judge was entitled to reach the findings he did in this case and to dismiss the appeals. I can find no material error of law in his reasoning.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.



Signed

Date 20th August 2018

Upper Tribunal Judge Martin