Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/01736/2019

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 2 January 2020	**On 13 January 2020**

Before

UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

MR PRINCE OWUSU FRIMPONG
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Miss D Ofei-Kwatia, Counsel, instructed by Goldfields Solicitors
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant appeals against the decision of First-tier Tribunal Judge Coutts ("the judge"), promulgated on 2 August 2019, dismissing the Appellant's appeal against the Respondent's refusal of his human rights claim.

2. The Appellant, a citizen of Ghana born on 10 March 1972, came to the United Kingdom in August 2002 as a visitor. He has been an overstayer for all but a few months of his time in this country. A human rights application was seemingly made in June 2017 and subsequently refused. The latest human rights claim was made on 16 February 2018.

3. The Respondent's decision of 9 December 2018 refusing that claim accepted that the Appellant has been in this country since 2002. Paragraph 276ADE(1)(vi) of the Immigration Rules was considered. It was concluded that the Appellant would not have faced very significant obstacles to reintegrating into Ghanaian society. It was also concluded that there were no exceptional circumstances in the case.

The decision of the First-tier Tribunal

4. Before the judge, the Appellant was unrepresented and there was no Home Office Presenting Officer. In his evidence, the Appellant stated that he did not know the whereabouts of his father or two siblings, although they did remain in Ghana. In setting out his findings and reasons, the judge concluded that the Appellant would not face very significant obstacles to reintegration back in Ghana. At [15] he directed himself that "upheaval and mere inconvenience, even where multiplied, are unlikely to satisfy this test". At [16] he sets out a number of factors in support of his conclusion that there would be no very significant obstacles on return. These included the time spent by the Appellant in Ghana before coming to the United Kingdom, an understanding of Ghanaian culture, and an ability to speak at least one of the official languages of that country. In addition, reference is made to experiences and skills acquired since being in the United Kingdom. These, it was said, would be of assistance to the Appellant upon return to his home country.

5. I set out [17] in full:

> "In terms of support in Ghana, I found the appellant's evidence regarding his family members to be vague and unconvincing and do not accept that he has lost contact with his father and siblings. He can therefore contact them in advance of his arrival and they can assist him with his relocation."

6. Having dealt with the Article 8 claim within the context of the Rules, the judge went on to consider it on a wider basis. Account is taken of the Appellant's "precarious" status in this country. He was given credit for being able to speak English but the judge was not satisfied that he was in fact being supported by friends and/or his church, and it was concluded that he was not financially independent. In all the circumstances the Article 8 claim was rejected and the appeal duly dismissed.

The grounds of appeal and grant of permission

7. The Appellant himself, or perhaps with the help of friends, drafted the grounds of appeal.

8. In granting permission, First-tier Tribunal Judge Kelly specifically limited the scope of that grant, confining it to the third ground of appeal only. This was done in the correct format and consistently with the guidance set out in Safi and others (permission to appeal decisions) [2018] UKUT 00388 (IAC). There has been no application to extend the scope of the grant. Ground 3 referred to relates to the judge's credibility conclusions and argued that no or no adequate reasons had been provided for finding aspects of the evidence to be unreliable.

The hearing

9. At the hearing before me Miss Ofei-Kwatia relied on the single ground upon which permission had been granted and argued succinctly that there simply were no reasons contained within [17] of the judge's decision. The issue of family support in Ghana was material to the Appellant's overall circumstances and went to the issue of very significant obstacles within the context of paragraph 276ADE(1)(vi) of the Rules. She also indicated that the adverse finding in respect of financial independence was also unreasoned. The fact that the Appellant had been unrepresented before the First-tier Tribunal and the absence of a Presenting Officer were emphasised. It was said that the judge should have dealt with all relevant matters with enhanced care.

10. Mr Tufan indicated that even if the judge had erred in failing to provide adequate reasons and even taking the case at its highest, the Appellant would not have succeeded on the facts of his case and in light of the relevant factors set out by the judge in the decision. I was referred to the well-known Court of Appeal authority of Kamara [2016] 4 WLR 152 and that of Mwesezi [2018] EWCA Civ 1104.

11. In response, Miss Ofei-Kwatia re-emphasised her point that the absence of reasons went to the sustainability of the decision as a whole.

Decision on error of law

12. Having considered all relevant factors with care I conclude that there are no material errors of law in the judge's decision.

13. It is right that in respect of [17], the judge has failed to provide particularised reasons for finding evidence relating to family members' whereabouts in Ghana "vague and unconvincing". On the face of it there is an error here. It may also be said that a similar error can be attached to

the conclusion in [25] regarding the Appellant's claimed financial support by friends and members of his church community (although in this passage the judge does refer to an absence of financial details having been provided, which can be read as at least *a* reason for the finding made).

14. For the following reasons, I conclude that the error identified is not material. The judge directed himself correctly to the relevant legal framework, the focus of that being paragraph 276ADE(1)(vi) of the Rules. The test of "very significant obstacles" presents a fairly high threshold (see Treebhawon [2017] UKUT 13 (IAC) and Parveen [2018] EWCA Civ 932). In terms of the meaning of the phrase "integration" (or re-integration), the Court of Appeal's decision in Kamara at paragraph 14 provides relevant guidance. In essence a broad evaluative assessment has to be undertaken factoring in relevant matters both objective and subjective.

15. The judge was clearly entitled to take into account all of the matters set out in [16] of his decision. The Appellant had not come to this country until he was 30 years old. It is quite clear that he was fully aware of Ghanaian culture and social mores in addition to being able to speak, at the very least, English. His work experience when in Ghana and/or relevant experiences gained whilst in the United Kingdom (unlawfully) were clearly relevant matters and the judge was fully entitled to conclude that the Appellant would be able to find and obtain reasonable employment on return of one sort or another.

16. The existence or otherwise of family support may potentially be a relevant factor in cases such as this. However, even if it were indeed the case that the Appellant had lost contact with his father and two siblings in Ghana, on the facts of this case, that single factor could not on any rational view have altered the outcome on the paragraph 276ADE(1)(vi) issue, given the high threshold to be attained. The Appellant was and is a healthy adult who had resided in Ghana for the large majority of his life. There was no issue of him losing cultural ties of understanding of his home country. There were no other particular factors that would have prevented him in any way from considering himself and being considered by others as an "insider", notwithstanding the fact common to most cases such as this that there would be an initial period of readjustment and no doubt difficulty upon return to his home country.

17. In respect of the wider Article 8 assessment, the Appellant's case was even weaker. In particular because his status in this country has been not simply "precarious", but unlawful since the expiry of the visit visa upon which he entered in August 2002. If an error was committed by the judge in respect of financial independence it could have no added effect other than being of neutral value in light of section 117B(2) of the 2002 Act.

18. In all the circumstances of the case and in light of the well-settled case law (including for example Agyarko [2017] 1 WLR 823, the Appellant's Article 8

claim outside the context of the Rules was almost bound to fail, and the judge's conclusion that it did so was entirely sustainable.

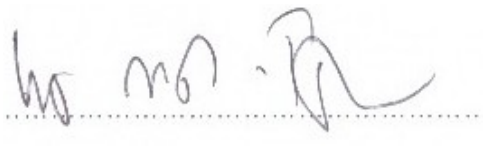
19. For these reasons, the judge's decision shall stand and the Appellant's appeal to the Upper Tribunal is dismissed.

Notice of decision

The First-tier Tribunal's decision does not contain any errors of law and it shall stand.

The Appellant's appeal to the Upper Tribunal is dismissed.

No anonymity direction is made.

Signed  Date: 6 January 2020

Upper Tribunal Judge Norton-Taylor