



IAC-FH-LW-V1

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

Appeal Number: PA/02719/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 10 February 2020**

**Decision sent to parties on
On 11 March 2020**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**J W (ZAMBIA)
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr Nigel Bramble, a Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity order

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of J W who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of her or of any member of her family in connection with these proceedings.

Any failure to comply with this direction could give rise to contempt of court proceedings.

1. The appellant appeals with permission against the First-tier Tribunal's decision dismissing her appeal against the respondent's refusal on 13 March 2019 to grant her refugee protection, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds.
2. The appellant appeared in person at the hearing. She is a Zambian citizen who has been in the United Kingdom unlawfully since overstaying a visit visa in 2003. She has AIDS but is fairly well on anti-retroviral drugs. The appellant has a daughter here, who is now 26 years old and a British citizen, and has made some friends in the 17 years of her unlawful residence in the United Kingdom.

Chronology

3. The appellant's daughter came to the United Kingdom in the early years of this century to live with her grandparents here. The arrangement was not always a happy one and in 2002, the grandparents were the subject of court proceedings for abusing their granddaughter.
4. In 2002, the appellant was granted a visit visa to enable her to attend the Court proceedings about her daughter. In October 2002, by consent order, the appellant's daughter was taken into care and lived for a time neither with her grandparents nor with the appellant.
5. The appellant overstayed her visit visa which expired on 19 March 2003. In May 2003, she made two abortive attempts to seek leave to remain outside the Rules, the first on 5 March 2003 by sending a letter which was not on the correct application form, and the second in May 2003 by attending at the Public Enquiry Office which is not a place which can receive the application she sought to make. Neither of these attempts amounted to an effective application. The applicant continued to overstay.
6. In 2009, the appellant began living with a Zimbabwean man who did have leave to remain but after a time, he returned to Zimbabwe and was denied re-entry to the United Kingdom. By this time the appellant had overstayed by six years and after her two abortive attempts in 2003, she made no further attempt to regularise her position in the United Kingdom.
7. In 2015, the appellant was diagnosed HIV positive, with an AIDS diagnostic illness. She has been on ARVs in the United Kingdom since then and is currently doing well.
8. On 5 January 2016, almost thirteen years after her visit visa expired, the appellant made an application for leave to remain on family and private life grounds seeking a fee waiver which was rejected. That application was also invalid. On 29 March 2016 the same thing happened. She still had not succeeded in making a valid application for leave to remain.

9. On 11 March 2017 the appellant was served with an overstayer notice, but she still did not return to Zambia.
10. This application for international protection and leave to remain on human rights grounds was made on 4 May 2017 and was the appellant's first valid application. The respondent refused it on 13 March 2019 and the appellant appealed to the First-tier Tribunal.
11. The First-tier Judge considered the history but was not satisfied that there were very significant obstacles for this appellant in re-establishing a private life in Zambia, for the reasons set out in the decision. The appellant appealed to the Upper Tribunal.

Grounds of appeal

12. The grounds of appeal may be summarised as follows. The appellant contends that under paragraph 276ADE(1)(vi) she has shown that she has lived continuously in the United Kingdom for less than twenty years, discounting any period of imprisonment, but that there would be very significant obstacles to her integration on return to Zambia if she were required to leave.
13. There is no challenge to the refusal of leave to remain on international protection grounds: only the Article 8 decision is challenged as the appellant confirmed this morning at the hearing.

Permission to appeal

14. First-tier Tribunal Judge Saffer granted permission to appeal on the basis that there was an outstanding application for leave to remain dating back to 2003, which had not been considered by the Secretary of State. That was wrong, both in fact and law: neither of the 2003 applications was a valid application, and the respondent's decision letter under challenge deals with the only valid application for leave to remain before the Tribunal.

Conclusions

15. The appellant says that she has private life with her adult British citizen daughter, now 26 years old, and that she has some friends made during her unlawful stay in the United Kingdom. She says that she no longer has family to turn to for support in Zambia and might not be able to afford the medication for her health problems if returned.
16. All of these matters are properly considered in the First-tier Tribunal decision, and the Judge reached conclusions which were proper, adequate, and intelligible on the evidence before him. The appellant's grounds of appeal are really no more than a disagreement with the findings in the First-tier Judge's decision.

17. These grounds do not disclose any material error of law in the decision of the First-tier Tribunal, which is upheld.

DECISION

18. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Signed **Judith AJC Gleeson**
2020

Date: 9 March

Upper Tribunal Judge Gleeson