**Upper Tribunal**
**(Immigration and Asylum Chamber)** **Appeal Number: HU/18953/2019**

**THE IMMIGRATION ACTS**

| **Heard remotely via Skype for Business** | **Decision & Reasons Promulgated** |
|---|---|
| **On 12 May 2021** | **On 27 May 2021** |

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**FRED JONES-LARTEY**
**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Ms Brown
For the Respondent: Ms Cunha, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a male citizen of Ghana who was born on 19 September 1980. He appealed to the First-tier Tribunal (Judge Oxlade) against a decision of the Secretary of State dated 11 November 2019 refusing his application to remain on human rights grounds following the making of a deportation order. The First-tier Tribunal, in a decision promulgated on 2 November 2020, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant has a long history of criminal offending the full particulars of which are set out in the First-tier Tribunal's decision at [4-10]. The most

serious and the index offence to the making of the deportation order was conspiracy to supply crack cocaine for which the appellant was sentenced to 12 years' imprisonment on 27 March 2015.

3. The judge found that the appellant had been lawfully in the United Kingdom since his arrival [86] and that he was socially and culturally integrated here [87]. The judge went on to find consider whether there exist very significant obstacles to the appellant's re-integration in Ghana, whether the consequences for the appellant's deportation on his British children (now aged 11 and 10 years) and his British wife would be unduly harsh, and whether there exist any very compelling circumstances which would render his deportation disproportionate. In each case, the judge found against the appellant and dismissed the appeal.

4. There are three grounds of appeal. First, the appellant challenges the judge's application of Section 117C(4)(c) of the 2002 Act (very significant obstacles to integration). The appellant left Ghana when he was 1 year old and has been in the United Kingdom since he was 8 years old. The support which the appellant could receive from his father had been significantly reduced by the fact that the father had to care for the appellant's mother following a stroke in March 2020. The appellant asserts that there was no evidential basis for the judge's finding that he is a 'fixer' with 'a lot of inner drive' [91].

5. I find that the judge, in a careful and thorough analysis of the evidence, has reached findings available to him on that evidence. Not only was the judge well aware of the appellant's lack of experience living in Ghana, it is clear that he started his analysis at [89] from an assumption that, having not lived in Ghana since he was an infant, it '*might be expected'* that the appellant *would* now face very significant obstacles on return. However, the judge goes on to detail his reasons for finding that the test of very significant obstacles was not met on the evidence. The judge's assessment of the appellant's character ('a fixer') was drawn from all the evidence concerning the appellant (there was no need for there to have been specific evidence of such characteristics) and the grounds indicate no reason to challenge that assessment beyond reiterating that the appellant had not lived in Ghana for 38 years (not relevant to an evaluation of his capability to thrive in the country) and that the appellant's attempt to set up a business in Ghana had been unsuccessful. That the appellant should have even attempted to establish his own business is more obviously evidence of his drive and capability than a lack of those qualities that he does not consider himself as alienated from Ghanaian society as he now claims. The judge was aware that the appellant has family members living in Ghana.

6. Moreover, the judge plainly took into account the appellant's father's reduced ability to assist the appellant because he refers explicitly to it at [91] noting that the father may not be able to visit Ghana himself to help the appellant on account of his need to care for his wife. It was open to the judge, having taken the wife's illness into account, to find that the

'faultlessly supportive' father would provide assistance to the appellant and the grounds offer no more than a disagreement with that valid finding.

7. Ground 2 raises two challenges to the judge's analysis. First, the appellant asserts that the judge wrongly took account of the risk of the appellant re-offending when assessing whether the consequences of the appellant's deportation for the children would be unduly harsh and, secondly, that the judge gave inadequate weight to the evidence of independent social workers. The OASYS report indicated that there is a medium risk of the appellant reoffending. The appellant argues that the judge's departed from a child-focused consideration of the consequences of deportation, thereby departing from the guidance provided in *KO (Nigeria)* [2018] UKSC 53 and *HA (Iraq)* [2020] EWCA Civ 1176 and that he had not referred expressly to expert independent social worker evidence that the deportation of the appellant would have a 'devastating' impact on the children which would be 'detrimental emotionally'.

8. In my opinion, the judge had not fallen into error. The judge raises the prospect of the appellant reoffending in his assessment of the social workers' evidence. He notes that the social workers have taken account of the effect of the appellant re-offending on the children's welfare (the grounds do not argue that they should not have done so) but he considers that they have not attached sufficient weight to that risk making entirely legitimate reference to the OASYS report's conclusion. He has not, as the grounds appear to suggest, determined whether the effect of deportation would be unduly harsh by direct reference to the appellant's offending. The judge has taken into account the likelihood that the children will encounter problems because the appellant may reoffend and will be absent from their lives in any event whilst, significantly, the judge has given cogent reasons for finding that the ability of the children's mother to care well for the children in the absence of the appellant had been wrongly been accorded inadequate weight in the expert evidence.

9. Ground 3 also lacks merit. The appellant argues that, in his discussion of very compelling circumstances, the judge has not given sufficient weight to the importance of the appellant in the life of his sister, Ursula who has learning difficulties. At [107] the judge concluded that, whilst acknowledging that the appellant and Ursula have a strong relationship, he is not the 'lynchpin' in the lives of either his mother or Ursula. The grounds at [19] offer nothing more than a disagreement with the judge's assessment regarding Ursula whilst at [20] is simply asserted that for the judge to find that the mother's stroke did not establish very compelling circumstances was 'demonstrably irrational' without referring to any part of the evidence which might support such a claim.

10. The grounds also argue that the judge had failed to apply Strasburg jurisprudence, in particular *Maslov v Austria* [2008} ECHR and that the judge failed to give proper weight to the appellant's 'model' conduct whilst in prison. However, the judge did refer to *Maslov* [66] and there is no reason at all to suppose that the principles of that judgment and other relevant case law were not considered by the judge (see also my

comments at (5) above). Importantly, by reference to *Maslov*, the judge accepted that the appellant was integrated into the society of the United Kingdom. Indeed, the grounds offer no reasons to support the argument that the judge ignored *Maslov* other than repeating the length of the appellant's residence in the United Kingdom and his degree of integration here, both factors which I am satisfied were taken into account throughout the judge's decision. As regards the appellant's conduct in prison, I am also satisfied that the judge's has taken appropriate account. He sets out in detail the evidence of witnesses who gave evidence as to conduct [49] and assesses that evidence at [108-109] finding that the projects with which the appellant became involved in prison were 'somewhat vague and aspirational' and, significantly, that the appellant could continue his involvement from abroad. The judge properly related the positive evidence of the appellant's conduct to his assessment of the likelihood of reoffending and was entitled to find that the level of risk stated in the OASYS report remained valid. The grounds again offer nothing more than disagreement with the judge's findings.

11. I agree with Ms Cunha, who appeared for the Secretary of State at the Upper Tribunal initial hearing, who submitted that the judge has carried out a holistic evaluation of the evidence. The judge has not ignored irrelevant evidence and has given appropriate weight to the items of relevant evidence before him. The grounds put forward a different evaluation of that evidence but, in my opinion, fail to expose any material error of law. In the circumstances, I dismiss the appeal.

**Notice of Decision**

The appeal is dismissed.

Signed Date 15 May 2021
Upper Tribunal Judge Lane