



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

Appeal Number: EA/12218/2021  
UI-2022-000321

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 29 July 2022  
(Hybrid hearing)**

**Decision & Reasons Promulgated  
On 22 September 2022**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**Entry Clearance Officer**

Appellant

**and**

**KUDIRAT AKOLADEKAZEEM ODEYEMI**

Respondent

**Representation:**

For the Appellant: Mr Diwnycz, Senior Presenting Officer

For the Respondent: Mr Hussain

**DECISION AND REASONS**

1. I shall refer to the appellant as the respondent and the respondent as the appellant as they appeared respectively before the First-tier Tribunal.
2. The appellant is national of Nigeria who was born on 20 September 1976. She applied for a confirmation of a right to reside under the EU Settlement Scheme as a 'person with a Zambrano right to reside'.

3. The First-tier Tribunal is a decision promulgated on 7 January 2022, allowed the appeal. the Entry Clearance Officer now appeals, with permission, to the Upper Tribunal.

4. The grant of permission summarises the Entry Clearance Officer's grounds as follows:

The grounds assert that the Judge erred in that; (1)there was a procedural irregularity in that the Judge was not provided with the Respondent bundle which had been served on the Tribunal by email dated 17/12/21, and (2)the Judge incorrectly followed the case of *Akinsanya* which was before the Court of Appeal at the time of the hearing.

5. The parties agree that the second ground is no longer the relevant; the Secretary of State lost her appeal in the Court of Appeal in *Akinsanya* [2022] EWCA Civ 37.

6. Mr Hussain, for Ms Odeyemi, agreed that ground one was made out and that the procedural irregularity required the appeal to be heard *de novo*.

7. In the circumstances, I set aside the First-tier Tribunal's decision. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

### **Notice of Decision**

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

Listing Directions: return to First-tier Tribunal; first available date at Bradford; face to face; not Judge Meah; no interpreter.

Signed

Date 29 July 2022

Upper Tribunal Judge Lane