



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
002217

Case No: UI-2023-002217

First-tier Tribunal No: PA/01099/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 25 September 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

FTB
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Mohzam, Counsel, instructed by Reading Refugee Support Group

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

Heard at Field House on 17 August 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS
EXTEMPORE JUDGMENT

1. The Appellant is an Eritrean national born on 4th July 1960. She appeals with permission a decision of First-tier Tribunal Judge Hawden-Beal promulgated on 19th April 2023.
2. The judge dismissed the Appellant's appeal on Article 8 Private Life grounds and this was the decision challenged on the basis of the medical evidence in the grounds before me. The judge also dismissed the appeal on International Protection grounds including Article 3. Although the grounds did not challenge those findings Mr Mohzam for the Appellant sought to enlarge the grounds before me today to encompass such a challenge. I rejected his application because the permission to appeal application clearly only takes issue with the judge's assessment of the medical evidence in the context of the obstacles to integration on return to Eritrea and not in connection with the Article 3 tests. Mr Mohzam also sought to enlarge the grounds to argue that the judge should have considered family life on the basis that a previous Tribunal Judge had found that the Appellant had siblings in the United Kingdom, he submitted that the judge should have presumed from that finding family life of a character and quality to engage Article 8 and requiring an assessment in the context of proportionality. I refused that application because the matter had not been raised before the First-tier Tribunal and was an insufficient basis upon which to argue that the judge had fallen into any legal error.
3. The nub of the case before me turned on the position in respect of the judge's assessment of whether or not the Appellant would face very significant obstacles to integration on return to Eritrea. The grant of permission identified that the judge had applied an incorrect legal test in that context at paragraph 35 of the decision. At the hearing before me Mr Walker accepted that the asserted error and acknowledge that the medical evidence which was before the judge showed that the Appellant would face very significant obstacles on return to Eritrea, and in those circumstances invited me to re-make the decision positively today on that basis.
4. Accordingly, I set aside the judge's decision for legal error in the assessment of very significant obstacles to integration in the context of the Immigration Rules. I re-make the decision on the Article 8 ground of appeal. I note that the Respondent has not taken any issue at any point that the Appellant's private life is sufficient to engage Article 8 in the context of her long residence of some thirteen years in the United Kingdom. Accordingly in terms of the assessment of proportionality under the Nationality Immigration and Asylum Act 2002 I take as my starting point that the Appellant meets the requirements of the Immigration Rules at paragraph 276ADE (vi) to the point that there is no public interest in the refusal of leave to remain and the decision is disproportionate. The public interest lies with a grant of leave for satisfaction of the rules.
5. **Notice of Decision**
6. The decision of the First-tier Tribunal dismissing the Appellants International Protection and Article 3 grounds is not vitiated by error and stands.
7. The decision of the First-tier Tribunal dismissing the Appellants Article 8 Private Life grounds is vitiated by error and I remake the decision to allow the appeal on Article 8 Private Life grounds.

E M Davidge
Judge of the Upper Tribunal

Appeal Number: UI-2023-002217
First-tier Tribunal Number: PA/01099/2022

Immigration and Asylum Chamber
31 August 2023