



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2023-003908**  
**PA/54195/2022**  
**IA/10189/2022**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 01 November 2023**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**CO (Nigeria)**  
**(anonymity order made)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr A. Alam, Arman Alam Thara Law Chambers  
For the Respondent: Mr E. Tufan, Senior Home Office Presenting Officer

**Heard at Field House on 24 October 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**

1. The Appellant is a national of Nigeria born in 1975. He appeals with permission against the decision of the First-tier Tribunal (Judge Abebrese) to dismiss his appeal against a refusal to grant him leave to remain on protection and human rights grounds.
2. There were two limbs to the Appellant's case. The first was that he asserted a well-founded fear of persecution for reasons of his political opinion should he be returned to Nigeria. He stated that his father had been a political activist in their home town of Benin City, and that his campaigning against corruption had earned him powerful enemies. The Appellant states that during his lifetime his father was subject to threats and intimidation which included an attack on the family home and the Appellant. His father was eventually murdered in 2015. When the Appellant returned to Nigeria to attend the funeral he was himself attacked. Another uncle was murdered in 2020. The Appellant believes that all of these events are linked because he and his family are perceived by his father's enemies to be carrying on his work, as indeed he feels obliged to do.
3. The second element of the case concerned the Appellant's private life in the UK. He has lived in this country since 2008 and avers that he now has ties to this country which would render the refusal of leave disproportionate. One element of that private life is that the Appellant is now close to, and cares for, his aunt who lives here.
4. At the hearing both the Appellant and his aunt gave live evidence. They both spoke to both limbs of the case.
5. The decision of the First-tier Tribunal does not reflect all of the evidence that was given below. There is no consideration, for instance, of the evidence given by the Appellant's aunt about events in Nigeria. She confirmed the Appellant's account that his father and uncle were both killed as a result of the former's political activity, and that to her knowledge threats had been made against the Appellant. In respect of the Article 8 claim the Judge does not reflect or make findings upon the Appellant's long residence in the UK and the extent to which he has established himself here. Nor is the decision supported by clear reasoning. The Appellant's claim to be in fear of those who murdered his father is dismissed on the basis that it is "far too wide"; as I read it this is a reference to the Appellant's position that he is unable to specifically identify what individuals or groups might have been behind the murder. With respect, if that is a matter outside the Appellant's knowledge, it is a matter outside the Appellant's knowledge. The Tribunal is still required to undertake an assessment of risk, for instance with reference to the country background material about political violence in Benin, and the specific documentary evidence (newspaper articles) confirming the claimed deaths.
6. For the Respondent Mr Tufan accepted that for the reasons I have summarised above the decision of the First-tier Tribunal is flawed for error of law. Although he fairly made the observation that the protection claim may, in the final analysis, be one which fails on the ground that the Appellant can reasonably be expected to relocate within Nigeria, he accepted that this was not a basis upon which he could object to the appeal being allowed today. Internal flight can only properly be assessed once the extent of any claimed risk in Benin is established. Similarly the Article 8 claim has its challenges, but it is not so clearly without merit that the errors in approach can be overlooked as immaterial. The Respondent accordingly invites this Tribunal to remit this appeal to enable the entire matter to be heard afresh. Mr Alam agreed with this proposal.

## **Decisions**

7. The decision of the First-tier Tribunal is set aside.
8. The decision in the appeal will be heard afresh by a judge of the First-tier Tribunal other than Judge Abebrese.
9. There is an order for anonymity in this ongoing protection appeal.

Upper Tribunal Judge Bruce  
Immigration and Asylum Chamber  
24<sup>th</sup> October 2023