



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

Appeal Number: DA/00349/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 4 June 2014**

**Determination  
Promulgated**

**On 5 June 2014**

**Before**

**UPPER TRIBUNAL JUDGE PITT**

**Between**

**DESMOND ADJEI COLEMAN**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Short, instructed by Migrant Law Partnership  
For the Respondents: Mr Saunders, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

The Appeal

1. This is an appeal against the determination promulgated on 8 April 2014 of First-tier Tribunal Judge Lloyd and Dr J O de Barros which dismissed appellant's appeal against the respondent's decision dated 15 February 2013 to refuse to revoke a deportation order.

Background

2. The background to this matter is that the appellant entered the UK in 2007 as a working holiday maker. He was granted further leave until 24 October 2009. An application as an unmarried partner failed and he became an overstayer from 23 March 2010 onwards. It transpired that the appellant had exercised deception in the unmarried partner application. He was convicted for this and on 4 January 2010 was sentenced to 12 months' imprisonment. On 5 August 2010 a deportation order was made against him. He made an asylum claim which was unsuccessful. He absconded from bail in August 2011, his electronic tag being found in a pub, the appellant and his partner maintaining to immigration services that he had been kidnapped. He was re-detained in July 2012. He was convicted of making a false representation. On 21 August 2012 he was sentenced to 12 months' imprisonment.

### Appeal before the First-tier Tribunal

3. The grounds of appeal maintain that the First-tier Tribunal did not give adequate reasons for finding that the appellant's circumstances were not "exceptional" such that deportation was disproportionate.
4. The grounds also maintained that the provisions of MF (Nigeria) v SSHD [2013] EWCA Civ 1192 did not preclude a full *Razgar* assessment of the appellant's Article 8 claim. The panel were in error in not conducting such an assessment.
5. The third ground of appeal was that the panel had erred in the weight given to the appellant's medical condition.
6. I can deal with these challenges relatively simply. As conceded by Ms Short, even if a full *Razgar* assessment was still required, the appeal could only succeed where the appellant's circumstances were "exceptional". This is simply not such a case.
7. The real substance of the appellant's case centred on his British child with his British partner and his partner's two British children from a previous relationship. The First-tier Tribunal assessed the evidence concerning the appellant's family life with his partner and the three children at [37] to [48]. That assessment took into account the material evidence regarding all three children and assessed their circumstances, accepting at [41] the "distress of separation" for the children if the appellant were to be deported and noting that the best interests of the children were a primary factor. It remained the case that the appellant had lived very little with any of the children, that his partner had been able to care for them when he was in prison and that the partner's children had a relationship with their birth father in the UK.
8. The conclusion at [49] that "we do not find exceptional circumstances" came at the end of this consideration of the evidence at [37] to [48] and it misreads the determination to suggest that it is the only assessment or comment of the panel on whether the evidence was sufficient to show

exceptional circumstances. The reasoning at [37] to [48] was more than adequate to explain the conclusion that there were no exceptional circumstances here. Any failure to set out a detailed Razgar assessment cannot be material where that is so. Indeed, it is difficult to see, however full the assessment, given the limitations of the appellant's family life with the children, how the fullest of *Razgar* assessments could have assisted someone with his immigration and criminal history.

9. As regards the third ground, at [32] the panel accepted the evidence as to the appellant's mental illness. At [42] the First-tier Tribunal again addressed the appellant's health and were correct in stating that his condition was controlled by medication and that the evidence did not show a lack of such medication in Ghana. The panel stated at [47] that in reaching their conclusion they took "seriously" the appellant's health issues. Having taken into account the material evidence concerning the appellant's health, indeed, finding that it was to be weighed "seriously" it cannot be correct that the First-tier Tribunal can be said to have erred in law in its approach to the medical evidence.

#### Decision

16. The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed:   
Upper Tribunal Judge Pitt

Date: 4 June 2014