



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: IA/19022/2014

THE IMMIGRATION ACTS

**Heard at Manchester
On 8th December 2014**

**Determination
Promulgated
On 11th December 2014**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

MS MUDIRAT OLATUNDUN OGUN

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not Represented

For the Respondent: Mr G Harrison (Senior Home Office Presenting Officer)

DETERMINATION AND REASONS

1. This is an appeal to the Upper Tribunal, with permission, by the Appellant.
2. The Appellant had applied to the Secretary of State for leave to remain in the United Kingdom outside the Immigration Rules on the basis of her private life in the UK.

3. Judge Raymond in the First-tier Tribunal dealt with the case on the papers and promulgated his decision on 4th August 2014 dismissing the appeal.
4. Permission to appeal was granted by a Judge of the First-tier Tribunal who said that it was arguable that the First-tier Tribunal Judge had erred in his findings.
5. I find it difficult to see any justification for permission to appeal being granted in this case. The Secretary of State refused the application on the basis that the Appellant did not meet the private life requirements provided for in Rule 276ADE. So far as family life was concerned no evidence was submitted with regard to that; rather she had indicated that she wished to continue her employment and volunteer teaching in the UK and also wished to pursue IVF treatment.
6. The Appellant sought legal advice and was represented initially by Lei Dat and Baig, Solicitors. She lodged a notice of appeal choosing to pay the fee for a paper consideration rather than the higher fee required for an oral hearing. She then, in accordance with directions, again through her solicitors lodged a bundle of evidence which she relied upon.
7. When dealing with the appeal the Judge noted a number of difficulties in the evidence. In particular, the fact that her now claimed relationship with a partner involved with her in her IVF treatment had not been mentioned at all in her original application. The medical evidence concerning medical treatment for infertility and the possibility of IVF was contradictory in relation to the existence or otherwise of a partner. There was no evidence that the Appellant was in a financial position to fund IVF treatment. There was extremely thin evidence of the relationship itself and her witnesses made no mention of it.
8. Unsurprisingly, on the basis of the meagre amount of evidence in front of him the Judge was not satisfied that the Appellant was in the claimed relationship nor that she was in a position to self fund IVF treatment and dismissed the appeal.
9. When an Appellant chooses and pays for an appeal to be dealt with on the papers then that is what they should expect. It is up to an Appellant, and in this case she was represented at the time, to submit sufficient evidence to ensure the desired result is achieved. A judge can only decide an appeal on the basis of the evidence that an Appellant chooses to put

before him. In this case it was wholly inadequate. An appeal to the Upper Tribunal is not an opportunity to put right the shortcomings in the original appeal and indeed the Upper Tribunal only has jurisdiction to deal with the matter if it is established that the First-tier Tribunal's decision is tainted by an error of law. In this case it was not.

10. The appeal to the Upper Tribunal is dismissed.

Signed

2014

Dated 9th December

Upper Tribunal Judge Martin