



IAC-FH-CK-V1

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

Appeal Number: IA/52874/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 28 October 2014**

**Decision & Reasons
Promulgated
On 30 October 2014**

Before

**THE HONOURABLE MR JUSTICE DAVIS
UPPER TRIBUNAL JUDGE GOLDSTEIN**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MISS P H W N
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr R Hopkin, Home Office Presenting Officer

For the Respondent: Mr J Rene, Counsel instructed by Just & Brown Solicitors

DECISION AND REASONS

1. On 4 August of 2014 the respondent to this appeal (in respect of whom an anonymity direction has been made) succeeded in her appeal against removal directions issued in November of 2013. Those directions followed

an application by the respondent to this appeal for further leave to remain in the United Kingdom within the Immigration Rules.

2. The respondent is a citizen of Kenya. She was born on 11 July of 1981. She came to the United Kingdom when she was 19. She is now in her early 30s. The basis upon which she sought to bring herself within the Immigration Rules was Rule 276ADE(vi), that is that she sought to indicate that she no longer had any ties to her home country, Kenya.
3. The complaint of the Secretary of State, the appellant in this case, is that the First-tier Tribunal when considering the facts of the case had failed adequately to explain why it was that the respondent as she now is had no ties within the meaning of the relevant Immigration Rule.
4. The First-tier Tribunal undoubtedly considered the appropriate authority, in particular **Ogundimu [2013] UKUT 60 (IAC)**. The Tribunal Judge quoted from paragraphs 123 and 124 of that decision. The First-tier Tribunal Judge noted that ties meant more than something merely remote and abstract. Consideration of whether a person has no ties had to involve a rounded assessment of all the relevant circumstances, not just limited to social, cultural and family circumstances.
5. The evidence recorded by the First-tier Tribunal Judge in relation to issues concerning the respondent's connection with Kenya really came to this. The respondent had said that she had nowhere to reside in her own home country and that her family had disowned her due to her medical condition but she also said that she had not returned to Kenya because she had no examination certificates which would enable her to obtain employment and she had no money. The money that she had had gone to pay medical bills of her father and the First-tier Tribunal Judge recorded this:

“The appellant (the respondent in this appeal) said she would have gone home if she was able to go home but had no money and had not graduated and saw no life for her in Kenya.”

6. On the face of it that evidence was something that the First-tier Tribunal Judge should have addressed in considering the rounded assessment of all the relevant circumstances. It goes without saying that if somebody says that they would have gone home had they had money and qualifications that suggests that they do have ties to the relevant country but the First-tier Tribunal Judge in coming to her conclusion that the respondent satisfied the relevant paragraph of the Immigration Rules simply said this:

“I have had the benefit of seeing her give evidence and of considering her lengthy witness statement and the documents which she had provided in support of her claim. I found her to be a credible and honest witness. She readily accepted she was unable to provide supporting documentary evidence in relation to some aspects of her

appeal ... Although there is no documentary evidence ... I do accept what she says in that regard.”

7. The Secretary of State for the Home Department was entitled to know if the respondent was to be successful in her appeal why it was that she was found to satisfy the conditions within the relevant paragraph. In our judgment the First-tier Tribunal Judge failed to do that in the determination.
8. It may be that a fresh determination before a different judge will reach the same conclusion in terms of paragraph 276ADE but we cannot be satisfied that they would and therefore the appropriate course is to remit it to the First-tier Tribunal. The case will have to be listed before a judge other than Judge Snape.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: **28 October 2014**

Mr Justice Davis