



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/00229/2014

**THE IMMIGRATION ACTS**

Heard at: Manchester  
On: 19<sup>th</sup> December 2014

Decision and Reasons Promulgated  
On 17<sup>th</sup> March 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

Secretary of State for the Home Department

Appellant

and

FOY

(anonymity order made)

Respondent

For the Appellant: Mr Harrison, Senior Home Office Presenting Officer  
For the Respondent: Mr Chaudhry, Lei Dat & Baig Solicitors

**DETERMINATION AND REASONS**

1. The Respondent is a national of Ghana date of birth 20th June 1979. On the 23<sup>rd</sup> March 2014 the First-tier Tribunal (Judge Birrell) allowed his appeal, with reference to the Immigration Rules<sup>1</sup>, against a decision to remove him from the United Kingdom pursuant to s10 of the Immigration and Asylum Act 1999<sup>2</sup>. The Secretary of State now has permission to appeal against that decision<sup>3</sup>.
2. This was an unusual case. The Respondent claimed that he had suffered various forms of serious harm before he came to the UK. His father had been executed by Rawlings when he was a small child, and his mother had thereafter killed herself after being raped by revolutionary soldiers. He and his sister had been

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<sup>1</sup> Determination promulgated on the 23<sup>rd</sup> March 2014

<sup>2</sup> Decision dated the 27<sup>th</sup> December 2013

<sup>3</sup> Permission granted by First-tier Tribunal Judge Renton on the 24<sup>th</sup> April 2014

brought up by an “aunt” who had, along with her husband, subjected both the he and his sister to sexual and physical abuse, and used them as domestic slaves. The children had been eventually thrown out and had lived on the streets where they encountered more abuse by members of the public as well as soldiers. When he was about 14-15 the Respondent returned to this “aunt” begging her for help. The woman, Habiba, took the Respondent and his sister to a shrine in the bush where the fetish priest told the assembled crowd that the children were witches. The priest ordered 4 men present to kill the Respondent’s sister and in the ensuing melee the Respondent managed to escape. He made his way to the Côte D’Ivoire where he was trafficked for the purposes of sexual exploitation. He fled there and managed to travel to the UK, spending time in Libya and France on the way. He claims to have entered the UK in 1998 and to have slept rough for a number of years before claiming asylum. By the date of the appeal before Judge Birrell medical evidence had been obtained indicating that he was suffering from serious mental health issues and had attempted suicide on a number of occasions.

3. Judge Birrell did not accept as well founded the Respondent’s opinion that his father had been killed by Rawlings. She was not satisfied that the facts were such that the Refugee Convention is engaged. Nor did she find that his removal would violate the high threshold inherent in Article 3 ECHR. Those findings have not been challenged. Having heard the live evidence of the Respondent, and having had regard to the numerous medical reports before her, Judge Birrell was however satisfied that the facts underpinning this claim were true. She found as fact that he was an orphan who had been brought up by a couple who subjected him to sexual abuse, that his sister had been killed and that he had ended up being sexually abused in the Côte D’Ivoire by a man who had initially offered to look after him. She accepted the unchallenged opinion of the clinicians who had prepared the reports that the Respondent was suffering from mental illnesses including PTSD, and that he had made a number of suicide attempts whilst facing the threat of removal. It was accepted that he has been living rough in the UK since 1998. On the basis of those findings Judge Birrell was satisfied that the Respondent had discharged the burden of proof in showing that he had “no ties” to Ghana and allowed the appeal with reference to paragraph 276ADE of the Immigration Rules.
4. The challenge to that decision is that the Tribunal failed to give adequate reasons for accepting some elements of the account proven when others had been rejected. It is submitted that there was “no reason to give him the benefit of the doubt” where “core issues” had been found to be untrue.

### **My Findings**

5. Before me Mr Harrison adopted the grounds of appeal and chose to make no further submissions in support. He was quite right to have done so. These grounds are essentially a disagreement with the facts as found by the First-tier Tribunal.

6. The First-tier Tribunal Judge had the benefit of hearing live evidence from the Respondent. She was able to weigh that testimony, and the detailed medical evidence, and consider it in the round along with the points set out in the refusal letter, which she accurately summarises at paragraph 15 of the decision. It was not an error of law for the Judge to have accepted his evidence about his circumstances, past and present. She was entitled to reject some parts of the evidence, whilst accepting others: Karanakaran v Secretary of State for the Home Department [2000] 3 All ER 449. It is simply not true that the Judge rejected any core elements of the claim - it is quite clear from paragraph 29 that the core factual issues were accepted. The only negative finding was that Judge Birrell did not accept that as a six-year-old child the Respondent would have known who had killed his father (ie the claim that he had been executed by Rawlings). Even if that could properly be described as a "core issue" the Tribunal was entitled to make positive findings about other aspects of the case; insofar as the grounds assert the contrary they are wrong in law. The Secretary of State complains that inadequate reasons were given for accepting the Respondent's account. The Judge heard his live evidence. She compared it to the written material and the detailed account provided to his doctors. She needed to provide no more reasons than that which are given: the evidence was consistent and credible. I find that the reasons given were adequate and the Secretary of State cannot be in any doubt about why the appeal was allowed: the Judge believed the evidence.
7. The First-tier Tribunal found that the facts proven led to a conclusion that the Respondent has lost all ties with Ghana. There is no challenge to that legal analysis and it is one I would respectfully endorse. That the Respondent should succeed under paragraph 276ADE(vi) is even more apparent when the new wording of the rule is considered: "there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK".

### Decisions

8. The decision of the First-tier Tribunal contains no error of law and it is upheld.
9. In view of the distressing facts of this case concerning sexual abuse and mental health I make a direction as to anonymity in the following terms:

"Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or Court directs otherwise, no report of these proceedings shall directly or indirectly identify the Respondent to this appeal. This direction applies to both the Appellant and Respondent and a failure to comply with this direction could lead to Contempt of Court proceedings.

Deputy Upper Tribunal Judge Bruce  
7<sup>th</sup> March 2015