



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

Appeal Numbers: IA/25462/2014  
IA/25453/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 11<sup>th</sup> September 2015**

**Decision & Reasons  
Promulgated  
On 22<sup>nd</sup> September 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ZUCKER**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MRS ELIZABETH ADEAGA (First Respondent)  
MASTER AYOMIDE SOKOYA (Second Respondent)  
(ANONYMITY DIRECTION NOT MADE)**

Respondents

**Representation:**

For the Appellant: Mr T Wilding, Senior Home Office Presenting Officer  
For the Respondents: Mr A Burrett of Counsel (Direct Access)

**DECISION AND REASONS**

1. Mrs Adeaga and Mstr. Sokoya are citizens of Nigeria (not Brazil as stated in the Decision and Reasons now under consideration). They are mother and son whose dates of birth as recorded as 18<sup>th</sup> July 1968 and 11<sup>th</sup> February 2001. There is something of an immigration history but for the purposes of this appeal it is sufficient to note that various applications for leave to remain in the United Kingdom were made in 2010 which were rejected by

the Secretary of State but no appealable decision was served upon the Respondents or either of them until 16<sup>th</sup> August 2013. The decision, when eventually it came, required the Respondents to leave the United Kingdom. The Respondents and each of them appealed in the First-tier Tribunal. Their appeals were heard by Judge of the First-tier Tribunal Andonian on 20<sup>th</sup> February 2015, sitting at Taylor House.

2. This was a human rights appeal. Consideration therefore was to be given to Appendix FM; paragraph 276ADE and the wider application of Article 8 ECHR. In summary the case advanced by the Respondents is set out at paragraphs 3, 4 and 5 of the Decision and Reasons of Judge Andonian.
3. The second Respondent was said to be doing well at school in year 7, hardworking, and at the time of the decision in the First-tier Tribunal, preparing for his GCSE examinations. He was described as a person of good character with good marks and good reports.
4. The first Respondent was desirous of her son remaining in the United Kingdom to continue his education. She had been in a relationship with her current partner for nine years. She had had a difficult previous relationship. She arrived in the United Kingdom before her son. It was his father who brought him to the United Kingdom before returning to Nigeria and has not been seen since. The second Respondent's case also was that were she to return to Nigeria she would have no support and her son has made progress in the United Kingdom and has formed a relationship with her partner whom it is said treats the second Respondent as his own.
5. The first Respondent's partner is said to be a taxi driver who came to the United Kingdom in August 1980. He met the first Respondent at a party in 2004. The relationship blossomed.
6. What I have set out above is the basis upon which the case was advanced. Judge Andonian went on at paragraph 6 of his Decision and Reasons to recognise where the burden and standard of proof lay and then went on to say very little other than that the burden of proof had been discharged. The "appeal" (sic) was allowed under paragraph 276ADE of the Immigration Rules although it is not clear, even from that, whose appeal since there were two Appellants.
7. Not content with the decision of Judge Andonian, by Notice dated 16<sup>th</sup> March 2015 the Secretary of State made application for permission to appeal to the Upper Tribunal. The grounds run to twelve paragraphs but in short it can be said that the Secretary of State contended that there were no sufficient findings. On 5<sup>th</sup> May 2015 Judge of the First-tier Tribunal Grimmett granted permission thus the matter comes before me. It is of note that in granting permission that Judge Grimmett said in the second paragraph of his grant, "*I could find no reasons in the decision*".
8. Mr Burrett in a valiant attempt to defend the Decision and Reasons sought to persuade me that given the Secretary of State for the Home Department was not represented, the evidence before the judge was unchallenged, and therefore it could be inferred, reading the extent of

reasons as a whole, that the judge had accepted all of the evidence that had been placed before him.

9. In my judgment that argument is not sustainable because it would have been possible for the judge to have allowed the appeal without accepting all of the evidence. It may have been some of the evidence but one does not know what evidence. It is trite law that a party to proceedings is entitled to know why they have lost. That is as true of the Secretary of State as it would have been for the Respondents to this appeal. If they had been on the receiving end of a decision without sufficient clarity for them to know why they had been unsuccessful they might also, rightly, have complained. Justice is blind.
10. What I find in the Statement of Reasons of Judge Andonian is no more than a record of the evidence that was given and a decision without reasons for the decision. The statement of reasons is fundamentally flawed. Still further the judge has failed to set out the public interest factors and set against them, either adequately or at all, those factors which he found favoured the appellants.
11. Where there is, as I find, a material error of law it is for the Upper Tribunal either to remake the decision or remit it. I cannot begin to remake the decision where there are no findings of fact. In those circumstances the only proper course is to remit the matter to the First-tier Tribunal. I would have said that there are no findings preserved but in this case there are no findings and so the matter will start all over again.

### **Decision and Directions**

12. The Secretary of State's appeal to the Upper Tribunal is allowed. The decisions of the First-tier Tribunal are set aside (though I have already observed the judge appears to have thought he only had one appeal before him). The matter is remitted to Taylor House with directions which appear below namely:
  - (1) That no interpreter is required.
  - (2) The matter should be listed before any judge other than Judge Andonian.
  - (3) The number of witnesses shall be three.
  - (4) There shall be a time estimate of 3 hours.
  - (5) As to the date of listing that will be dealt with administratively in due course with notice of hearing to be sent out to the parties.

**Signed**

**Date**

**Deputy Upper Tribunal Judge Zucker**