



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

Appeal Number: IA/31799/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision and Reasons  
Promulgated**

**On 11 August 2015**

**On 18 August 2015**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

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

Appellant

**and**

**VC**

Respondent

**Representation:**

For the Appellant: Mr McVeety (Home Office Presenting Officer)

For the Respondent: Mr Sellwood (Counsel)

**DECISION AND REASONS**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an anonymity order. Unless the Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.*

1. The respondent is from Kenya and is aged 62. She appealed to the First-tier Tribunal against a decision dated 31 July 2014 to remove her to Kenya.
2. I have anonymised this decision as it refers to sensitive aspects of the appellant's private life.

### **Procedural history**

3. In a decision promulgated on 17 April 2015 the First-tier Tribunal allowed the respondent's appeal on the basis that there would be very significant obstacles to her integration in Kenya.

### **SSHD's grounds of appeal**

4. Mr Nath accepted that although formulated in the written grounds as three grounds of appeal, the grounds of appeal are twofold. First, the Judge erred in attaching weight to a letter dated 12 August 2009 when that letter could have been manufactured. Second, the Judge did not appreciate the high test required in order for an applicant to meet the "very significant obstacles" required in 276ADE.
5. In a decision dated 11 June 2015 Judge McDade granted the SSHD permission to appeal on the basis that the Judge failed to give adequate reasons for concluding that the "very significant obstacles" test had been met.
6. The matter now comes before me to determine whether or not the decision contains a material error of law.

### **Hearing**

7. Mr Nath relied upon the two grounds of appeal and asked me to find that the Judge was wrong to fail to recognise the strictness of the relevant test.
8. I indicated to Mr Sellwood that I did not need to hear from him because I intended to dismiss the SSHD's appeal. I now give my reasons for doing so.

### **Error of law discussion**

9. In my judgment the grounds of appeal formulated by the SSHD do no more than disagree with the decision of the First-tier Tribunal. The Judge was entitled to accept the circumstances of the appellant's children in Kenya and her likely circumstances if removed there for the reasons provided. Whilst these findings might be described as generous they do not contain an error of law.
10. The Judge clearly directed himself to the relevant wording of 276ADE. The Judge was well aware that for the purposes of that rule "the

question is not whether the appellant's removal would constitute a disproportionate interference with her private or family life, but whether there would be very significant obstacles to her integration into Kenya" [52]. The Judge was well aware of the relevant test and that it should be distinguished from other considerations. He gave the phrase its ordinary meaning. Its ordinary meaning clearly signifies that a high threshold is required and must be met. The Judge decided that in this case the appellant's circumstances met that high threshold. This was a finding of fact for him to make. It is a generous factual finding but it is not vitiated by any error of law.

### **Decision**

11. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law and I do not set aside the decision.

Signed:

Ms M. Plimmer  
Judge of the Upper Tribunal

Date:  
13 August 2015