



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

Appeal Number: DA/00063/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 14 January 2016**

**Decision & Reasons Promulgated
On 19 January 2016**

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

PETER OLUWADAMILOLA SHOWEMIMO

Respondent

Representation:

For the Appellant: Mr. S Whitwell, HOPO

For the Respondent: In person

DECISION ON ERROR OF LAW

1. The Secretary of State appeals with leave against the decision of First-tier Tribunal Judge Petherbridge allowing the appeal of the respondent against the decision of the Secretary of State dated 9 August 2013 to make a deportation order against him by virtue of Section 32(5) of the UK Borders Act 2007.
2. The judge found the respondent, his mother and sister to be credible witnesses. He relied on the findings made by the judge in the sister's appeal against the deportation order made against her.

3. I find however that the judge failed to consider the particular circumstances of this respondent in respect of his appeal against the deportation order against him.
4. The judge found that the respondent has lived in the UK continuously since his birth and therefore it must follow that he has no social or cultural ties with Nigeria.
6. The judge heard the appeal on 19 August 2015. It appears that he considered the respondent's appeal under the old paragraph 339A. Paragraph 399A was amended on 28 July 2014. The judge's reliance on the old paragraph 399A led to his failure to properly consider whether the respondent met all of the requirements of the current paragraph 399A. The requirements are whether the respondent has been lawfully resident in the UK for most of his life, whether he is socially and culturally integrated in the UK; and whether there would be very significant obstacles to his reintegration into Nigerian society.
7. The errors are material. The judge's decision cannot stand.
8. The appeal is remitted to Taylor House for rehearing by a First-tier Judge other than FtTJ Petherbridge.

Signed
Upper Tribunal Judge Eshun

Date