



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/29217/2014**

**Appeal Numbers:**

**IA/29228/2014**

**IA/29235/2014**

**IA/29244/2014**

**IA/29254/2014**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**On 12<sup>th</sup> May 2016**

**Promulgated**

**On 31<sup>st</sup> May 2016**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

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

Appellant

**And**

**MRS UFOMA THERESA IROGUEHI (FIRST APPELLANT)  
MR EMMANUEL MONDAY OKWUWE (SECOND APPELLANT)  
MISS EMANUELLA KOSEYEM OKWUWE (THIRD APPELLANT)  
MISS JASMINE NGOZI OKWUWE (FOURTH APPELLANT)  
MISS JANELLE NGOZI OKWUWE (FIFTH APPELLANT)  
(ANONYMITY DIRECTION NOT MADE)**

Respondents

**Representation:**

For the Appellant: Ms K Pal, Home Office Presenting Officer  
For the Respondents: Miss P Yong, Fursdon Knapper Solicitors

## **DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Secretary of State in relation to a decision and reasons of Judge Andonian promulgated on 19<sup>th</sup> October 2015 after a hearing at Taylor House on 25<sup>th</sup> September 2015. The appeal was in relation to a family of five, mother, father and their three children all of whom have been in the UK since December 2001 or rather the First Appellant having been in the UK since 2001, the second since 2005 and the remaining children since their respective dates of birth. Only one of the children has been here longer than seven years.
2. The appeal was in relation to a decision to refuse them leave to remain under Paragraph 276ADE of the Immigration Rules and Article 8 generally. The Secretary of State challenges what is by any standards an extremely brief determination, running to one and a half pages, on the basis that the judge has failed to apply binding case law in relation to EB (Philippines) [2014] EWCA Civ 874 and Zoumbas [2013] UKSC 74 and secondly making a material misdirection in law in failing to give adequate weight to the public interest factors highlighted in Section 117B of the 2002 Act.
3. In granting permission the First-tier Tribunal Judge granted permission on the basis of the grounds noting that it was a case which turned on the interference with private life, there being no proposed interference with family life as the Appellants would be removed together. The judge noted that Section 117B required the First-tier Tribunal to give little weight to the private lives of these Appellants because they had established their private life at a time when they were in the UK unlawfully. The First-tier Tribunal, at paragraph 8, had decided that section 117B should not be applied in relation to the children because as children it was not their fault.
4. I agree with the judge who granted permission. Section 117 applies to all applicants and it is not excluded because some of them are children. The judge has signally failed to consider 276ADE adequately or at all in relation to anybody except the child who has been here more than seven years. Has failed to consider Section 117 adequately or at all in relation to anyone except that one child. The judge appears to have decided it is unreasonable for that child to go back to Nigeria without any consideration of the fact that the child would be returning with the remainder of its family.
5. It is a wholly inadequately reasoned decision and it also fails to take into account the law which it is required to do and for that reason I set it aside in its entirety. To her credit Ms Yong valiantly sought to defend the

decision relying on various pieces of case law including PD and Others (Article 8 Conjoined Family Claims) Sri Lanka [2016] UKUT 00108 (IAC) and also Treebhawon and Others (Section 117B(6)) [2015] UKUT 00674 (IAC). The points made by Ms Yong are all valid points but they go to submissions in a substantive appeal and do not rescue what is an unsustainable decision.

6. Due to the paucity of reasons in the First-tier Tribunal's decision it is appropriate for it to be remitted to the First-tier for a full re-hearing by another judge.

No anonymity direction is made.

Signed

Date 27<sup>th</sup> May 2016

Upper Tribunal Judge Martin