



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/18571/2016

THE IMMIGRATION ACTS

Heard at Liverpool
On 24th August 2017

Decision & Reasons Promulgated
On 6th September 2017

Before

Upper Tribunal Judge Chalkley

Between

OMOLOLA TAIYE ABIMBOLA
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant:

Mr B Adewsi, a Solicitor from Crown and Law

For the Respondent:

Mr G Harrison, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Nigeria who was born on 8th March 1972.
2. She made application for leave to remain in the United Kingdom on the basis of her private life, but her application was dismissed by the Secretary of State on 23rd December 2015 and she therefore appealed to the First-tier Tribunal.

3. Her appeal was heard by First-tier Tribunal Judge Pickup, who decided the appeal without an oral hearing.
4. The reason the judge decided the appeal without an oral hearing is because in her Notice of Appeal, submitted by Crown and Law, she indicated that she wanted an oral hearing. There was on the file before Judge Pickup a copy of a letter written to the appellant and her solicitors on 27th October last advising them that any written evidence or submissions they wished to make must be forwarded to the Tribunal and to the respondent by 24th November 2016.
5. Unbeknown to Judge Pickup the appellant's solicitors had requested an oral hearing and despite having been advised by the Tribunal that they should pay the balance of the £140 fee no later than 17th October 2016, it was not paid until 21st October 2016. The Tribunal's administration failed to bring this to the attention of the judge.
6. As a result, First-tier Tribunal Judge Pickup decided the appeal without an oral hearing.
7. I make no criticism of First-tier Tribunal Judge Pickup. He should have been advised by administration that the appellant had paid the fee for an oral hearing and the matter should have been listed for oral hearing. As a result, the appellant has effectively been denied a fair hearing, but her solicitors must accept responsibility for their failings also.
8. At the hearing before me Mr Harrison quite properly accepted that the interests of justice require that the determination of Judge Pickup should be set aside and the matter be remitted to the First-tier Tribunal to be heard afresh by a judge other than First-tier Tribunal Judge Pickup or First-tier Tribunal Judge Adio.
9. It is my understanding that the appellant wishes to call members in support of her appeal. No witness statements have been submitted.
10. **I direct** that witness statements by the appellant and any witnesses she wishes to call should be submitted to the Tribunal **no later than 21 days before the hearing** of the appeal and at the same time should be sent to the Home Office Presenting Officers' Unit. Two hours should be allowed for the hearing of the appeal.

No anonymity direction is made.

Richard Chalkley

Upper Tribunal Judge Chalkley