



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/31201/2015**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Royal Courts of Justice**

**Decision &  
Promulgated**

**Reasons**

**On 3 May 2017**

**On 15 June 2017**

**Before**

**THE HONOURABLE MR JUSTICE COLLINS**

**Between**

**FATIMOH KOREDE KASUMU  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: In person

For the Respondent: Mr P Duffy, a Senior Home Office Presenting Officer of the Specialist Appeals Team

**DECISION AND REASONS**

1. This is an appeal against the decision of First-tier Judge Eldridge given on 2 September 2016 whereby the application by the appellant for further leave to remain on the basis of her family and private life in this country was rejected. It transpires that it is now accepted that she has care of a child who has British nationality. He may also have Nigerian nationality but that is not material because he is British. That being so, Mr Duffy has very fairly drawn my attention to the guidance which is applied by the Secretary of State and what is material is:-

“Will it be unreasonable to expect a British citizen child to leave the UK since where a decision to refuse the application would require a parent or primary carer to return to a country outside the EU the case must always be assessed on the basis that it would be unreasonable to expect a British citizen child to leave the EU with that parent or primary carer”.

Pausing there of course it reflects a decision of the European Court of Justice which was to that effect. Going back to the guidance:

“In such cases it will usually be appropriate to grant leave to the parent or primary carer to enable them to remain in the UK with the child provided that there is satisfactory evidence of a genuine and subsisting parental relationship”.

It then goes on that there could be refusal if the conduct of the parent or primary carer gave rise to considerations of such weight as to justify separation and that it is accepted does not apply here.

2. Albeit other matters were raised on the grant of permission to appeal and there was an issue based on fairness, it is not necessary to go into those because Mr Duffy, as I say, very fairly and properly has recognised that in the light of that guidance it would be impossible to support the decision that leave should not be granted.
3. Accordingly I simply need to do no more than allow this appeal.

No anonymity direction is made.



Signed

Date: 10 June 2017

Mr Justice Collins

**TO THE RESPONDENT**  
**FEE AWARD**

If a fee has been paid, a fee award will be made.



Signed

Date: 10 June 2017

Mr Justice Collins