



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/17252/2016

THE IMMIGRATION ACTS

Heard at Field House
On 19 June 2018

Decision & Reasons Promulgated
On 28 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MISS ANNA ASAMOAH KONADU
(ANONYMITY DIRECTION NOT MADE)

Respondent

Representation:

For the Appellant: Mrs W Brocklesby, Senior Home Office Presenting Officer
For the Respondent: Mr A Okuyiga (Solicitor), C W Law Solicitors

DECISION AND REASONS

1. The appellant is a citizen of Ghana, born on 3 March 1986, who appealed to the First-tier Tribunal against the decision of the respondent, dated 28 June 2016, refusing leave to remain. In a decision promulgated on 23 November 2017 Judge of the First-tier Tribunal A Simmonds allowed the appellant's appeal on human rights grounds.
2. The appellant before me is the Secretary of State and the respondent is Miss Konadu. For the purposes of this appeal I refer to the parties as they were before the First-tier Tribunal where the appellant was Miss Konadu.

3. The Secretary of State appeals with permission on the following grounds:

Ground 1 - The judge's conclusions, at [33] and [34] in relation to Article 8 were devoid of reasoning (**Shehzad (sufficiency of reasons set aside) [2013] UKUT 00085**);

Ground 2 - Ground 1 is compounded by the judge making findings on an incorrect premise. The judge failed to bring into the proportionality assessment the fact that the appellant did not meet the Immigration Rules;

Ground 3 - The judge's findings were internally inconsistent and it is not clear what factors the judge weighed in favour of the appellant and those against (**Hesham Ali [2016] UKSC 60**).

Discussion and Error of Law

4. Ground 1 - although it is argued that the judge's findings were devoid of reasoning, that is not the case. At [25] and following the judge, having found that the appellant could not demonstrate very significant obstacles under paragraph 276, went on to make findings outside the Immigration Rules from paragraphs [25] to [34].
5. Specifically, at [33] the judge took into consideration "all of the factors listed above in consideration of the question of 'very significant obstacles'" and found that these amounted to exceptional circumstances. Although Mrs Brocklesby argued that the judge was effectively saying that what could not amount to very significant obstacles under the Rules amounted to exceptional circumstances, that is incorrect.
6. The judge also referred to the circumstances of all of the family members in this case specifically at [26] and [27] including that the appellant had established a significant family and private life in the UK both through her father, brother and through her church and the judge took into consideration evidence from the church as well as evidence of the appellant's mental health difficulties. Whilst those mental difficulties might not have, in themselves, amounted to very significant obstacles to integration in Ghana in terms of private life and paragraph 276ADE of the Immigration Rules, the judge had in mind the circumstances in their entirety including that the judge was satisfied that the appellant enjoyed family, as well as private life, in the UK. Those findings, including that the appellant enjoys family life, have not been specifically challenged.
7. In reaching her conclusions the judge, specifically relied on her findings under the Immigration Rules, which took into consideration, at [18] the medical report including that it was confirmed that it was in the appellant's best interests to remain in the UK; that she has no close family in Ghana; that she has lived almost at third of her life in the UK; and that her family relationships, particularly with her father and brother have assisted her and have been particularly important for her given the depression she has suffered since the death of her mother. The judge also took into consideration in the round the appellant's involvement in her church and the age of her father, who is now 69 and at a stage where he will soon no longer be able to work and is anticipating relying on the appellant for practical help and support, particularly given that he is a

widower. The judge further found that there would not be funds available for regular visits and that keeping in touch by electronic means was no substitute for a 'physically close and constantly supportive family and social life'. Those were findings available to the judge on the evidence before her and the judge noted that there were no issues of credibility in this case ([17]).

8. Whilst another Tribunal may have reached a different conclusion, the judge's decision contains adequate reasons. Adequacy means no more nor less than that. It is not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. The purpose of the duty to give reasons, is in part, to enable the losing party to know why she has lost and it is also to enable an appellate court or tribunal to see what the reasons for the decision are so that they can be examined in case there has been an error of approach (**MD (Turkey) v SSHD [2017] EWCA Civ 1958**).
9. The judge was satisfied that the appellant's circumstances and those of her family, (and the judge took into consideration the family life of all the family) were capable of amounting to unjustifiably harsh consequences (**Agyarko [2017] UKSC 11**). It cannot be properly said that the decision is irrational.
10. The judge having set out her reasoned conclusions as to why the appellant did not meet the Immigration Rules had in mind the factors in favour of the public interest, in applying as she did Section 117 at [31], having set out the relevant section at [12]. A fair reading of the decision in its entirety demonstrates that the judge was aware of everything that counted against the appellant, but was satisfied that removal would still be disproportionate.
11. The decision of the First-tier Tribunal does not disclose an error of law and shall stand.

No anonymity direction was sought or is made.

Signed
Deputy Upper Tribunal Judge Hutchinson

Date: 25 June 2018

TO THE RESPONDENT
FEE AWARD

No fee award application was sought or is made.

Signed
Deputy Upper Tribunal Judge Hutchinson

Date: 25 June 2018