



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

Appeal Number: HU/12007/2018

THE IMMIGRATION ACTS

**Determined at Field House
on 24th June 2019**

**Decision & Reasons Promulgated
On 27th June 2019**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**SO
(ANONYMITY DIRECTION MADE)**

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: none

For the Respondent: none

DECISION AND REASONS

1. The Appellant is a national of Nigeria. The Appellant appealed against the decision of the First-tier Tribunal, who, in a determination promulgated on the 7th March 2019, dismissed her appeal against the decision of the Respondent made on the 25th March 2018 to refuse her application for leave to remain.
2. Permission to appeal was granted by First-tier Tribunal Judge Parkes on the 15th April 2019.

3. An 'error of law' hearing was listed on the 20th May 2019 and the Tribunal heard submissions from each of the advocates. I reserved my decision and, in a decision, promulgated on the 21st May 2019, I set out why I had reached the conclusion that the decision of the FtT involved the making of an error on a point of law. The issue before the Tribunal related to the operation of S117B(6) and the best interests of the children concerned. In the decision, I preserved a number of findings of fact which were not affected by the error of law at paragraph 47 and the matter was set down for a hearing before the Upper Tribunal to remake the decision.
4. In an email sent on 24th June 2019 the Respondent sought permission to withdraw his case under Rule 17 of the Tribunal Procedure (Upper Tribunal) Rules 2008 on the basis that there had been fresh material since the FtT hearing and in the circumstances the Respondent was content to withdraw their case and to not oppose the appeal.
5. I have considered the basis upon which the Respondent seeks to withdraw his case. Having regard to SM (withdrawal of appealed decision: effect) Pakistan [2014] UKUT 00064 (IAC) and TPN (FtT appeals - withdrawal) Vietnam [2017] UKUT 00295 (IAC), I consider it appropriate, for the reasons given, to consent to the withdrawal of the Respondent's case.
6. Consequently, I proceed on the basis of the written request made on behalf of the Respondent. As there is no challenge to the case advanced by the Appellant by the Respondent having already found an error of law, I remake the appeal allowing the Appellant's appeal.

Notice of Decision

The First-tier Tribunal made a material error of law. I set aside the decision of the First-tier Tribunal and remake it allowing the appeal.

Signed

Date 24 June 2019

Upper Tribunal Judge Reeds