



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

Appeal Number: PA/01577/2019

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 26<sup>th</sup> June 2019  
extempore**

**Decision & Reasons Promulgated  
given On 23<sup>rd</sup> August 2019**

**Before**

**Upper Tribunal Judge Chalkley**

**Between**

**OLAMIDE [A]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

*For the Appellant: Ms Popoola, Solicitor, R & A Solicitors*

*For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer*

**DECISION AND REASONS**

1. The appellant is a citizen of Nigeria born on 24<sup>th</sup> June 1981, who appealed to the First Tier Tribunal against the decision of the respondent to refuse her asylum claim to give directions for her removal to Nigeria.
2. Her appeal was heard by First-tier Tribunal Judge Foudy on 20<sup>th</sup> March, 2019.
3. The appellant claims that she has a well-founded fear of persecution in Nigeria because of her membership of a particular social group, and that

the state of Nigeria is unwilling or unable to protect her. In the alternative she claims that her claim falls to be considered on the basis that she is entitled to humanitarian protection under the Immigration Rules insofar as they apply Council Directive 2004/83/EC on minimum standards for the qualification and status of third party nationals or stateless persons as refugees or persons who otherwise need internal protection and the content of the protection granted. Further, she claims that her removal would be a breach of her rights under Articles 2 and 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

4. The Tribunal Judge found that the appellant would not be at risk on return to Nigeria and that her daughter would not face any real risk of inhumane or degrading treatment in Nigeria. It was claimed that the appellant's daughter would be made to undergo female genital mutilation and it was claimed that the appellant had undergone FGM. The judge did not believe the appellant's account and dismissed the appeal.
5. The grounds of permission to appeal asserted that the First-tier Tribunal:  
"failed to consider a medical letter from a GP that confirmed that FGM was performed on the appellant".
6. Today, Ms Popoola told me that the letter in question was a letter from the appellant's GP referred to in paragraph 9 of the determination. She claimed that the judge had failed to consider that letter despite the fact that in paragraph 9 the letter is referred to and the judge says that she has read and fully considered the documents listed.
7. I pointed out to Ms Popoola that the letter from the GP nowhere confirms that the appellant has been the subject of FGM. It refers to the appellant complaining to her GP that she has been the subject of FGM but, does not confirm that the GP has examined her and been able to confirm that FGM has been performed on her.
8. Ms Popoola agreed that the grounds were misleading.
9. I did not need to trouble Mr Diwnycz. The grounds have simply not been made out. The judge very clearly did consider the evidence in question but the evidence did not provide any proof that the appellant had been the subject of FGM, it only repeated the claim that she had made to the judge that she had been the subject of it. The judge's determination is upheld since it does not contain any error of law.
10. Everyone conducting litigation before this or any other Tribunal is under a strict duty to take very great care not to mislead. And the duty on solicitors, as officers of the court, is no different. Because of a careless mistake (if I thought that it was deliberate I would have had no hesitation in reporting the matter to the Solicitors Regulatory Authority) several hundred pounds of tax payer's money has been wasted.

No anonymity direction is made.

***Richard Chalkley***  
Upper Tribunal Judge Chalkley

22 August 2019