Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/20193/2019
UI-2021-000751

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 5 April 2022	**On 24 June 2022**

Before

MRS JUSTICE COLLINS RICE
(Sitting as a Judge of the Upper Tribunal)
UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

ISATU BAH
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr. J Metzer, Counsel, instructed by Harding Mitchell
For the Respondent: Ms. S Lecointe, Senior Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant appeals against a decision of Judge of the First-tier Tribunal Dyer ('the Judge') promulgated on 5 August 2021 in which her appeal on human rights grounds was dismissed.

Background

2. The appellant is a national of Sierra Leone and is presently aged 42.

i. Asylum application

3. The appellant unlawfully entered the United Kingdom on 5 December 2002, a week before her she turned twenty-three. Upon being served with IS151A papers, she claimed asylum on 10 December 2002. She stated that her father was an Imam, but she herself held no interest in the Muslim religion. Having meet some Jehovah's Witnesses she attended Kingdom Hall services and announced to friends that she had converted. Her father found out about the conversion, saw her reading Christian books, beat her and ordered her from the family home. She went to the police who did not take her complaint seriously as her family was well-known to the authorities. She left Sierra Leone and travelled to the United Kingdom, via Liberia.

4. The respondent refused the asylum application by a decision dated 22 January 2003 and the appellant's appeal was subsequently dismissed by the Immigration Appellate Authority in June 2003 (HX/14584/2003).

5. The appellant was recorded by the respondent as an absconder on 28 May 2004.

ii. Application for indefinite leave to remain

6. The appellant applied for indefinite leave to remain on 9 July 2007. The respondent refused the application by a decision dated 5 November 2007.

iii. Fresh asylum claim

7. The appellant submitted a fresh asylum claim on 18 December 2008. She contended that her family were still searching for her consequent to her conversion, as evidenced by various newspaper articles. Her father has lost all respect in the community and the only way he could regain respect was by undertaking an honour killing. She further contended that if she had not fled Sierra Leone, she would have been subject to a forced marriage.

iv. Conviction

8. On 3 February 2010 the appellant pleaded guilty at Snaresbrook Crown Court to one count under section 25(1) of the Identity Cards Act 2006 of having placed a false indefinite leave to remain stamp in her genuine Sierra Leone passport in order to seek and ultimately secure employment. HHJ Huskinson sentenced her to a custodial term of 6 months accompanied by a recommendation for deportation.

v. Deportation proceedings

9. The respondent issued the appellant with a Notice of Liability for Deportation on 22 February 2010 and subsequently issued a reasons for deportation letter on 10 March 2010. The appellant lodged an appeal against this decision on 17 March 2010.

10. The appellant served further submissions on 23 March 2010 and 10 May 2010, disclosing an assault by a family relative. She attended a screening and substantive asylum interview on 7 June 2010. She served further submissions on 9 June 2010. The respondent issued a refusal decision in respect of the asylum claim on 15 June 2010.

11. The appellant's appeal was dismissed by the First-tier Tribunal on 28 September 2010. This decision was set aside and subsequently the Upper Tribunal refused the appeal on 1 November 2011 (IA/14066/2010). The Upper Tribunal concluded that there were very strong grounds for inferring that the newspaper articles had been deliberately placed in newspapers at the appellant's instigation to aid an asylum application. The appellant was found not to have pursued her claimed faith with any vigour for a period of seven or eight years following her arrival in this country. Medical records were considered not to corroborate assertions made by the appellant. The Upper Tribunal concluded that the appellant had not established to the requisite standard that she had fled Sierra Leone either because she had been condemned by her father as an apostate, or because he was trying to force her into an arranged marriage against her wishes.

12. The appellant was refused permission to appeal to the Court of Appeal on 30 November 2011 and became appeal rights exhausted.

13. The appellant was recorded as an absconder on 22 December 2011 having failed to comply with reporting conditions.

14. A deportation order was signed on 18 July 2012.

vi. Applications for leave to remain/ revocation of deportation order

15. The appellant made further applications for leave to remain in this country.

16. On 3 April 2014 she applied for leave to remain on the basis of a subsisting relationship and recent engagement in IVF treatment. She detailed that she suffered from anxiety, depression and panic attacks.

17. The respondent treated the application as one seeking revocation of a deportation order and refused the application by a decision dated 21 March 2016. The decision was certified under section 94B of the Nationality, Immigration and Asylum Act 2002 ('the 2002 Act').

18. Further submissions dated 30 March 2016 and 31 May 2016 reiterated that the appellant had health concerns. They identified that she suffered from anxiety, depression and post-traumatic stress disorder ('PTSD') and that she

had been referred to the Southwark Community Mental Health team for assessment.

19. Further submissions dated 25 May 2016 asserted that the deportation order was not valid as the Crown Court had not been made aware that the appellant had claimed asylum. These submissions entirely fail to engage with the Crown Court only having recommended deportation, not ordering it.

20. On 14 June 2017 the Supreme Court gave judgment in *Kiarie and Byndloss v. Secretary of State for the Home Department* [2017] UKSC 42, [2017] 1 WLR 2380, holding that in respect of certification under section 94B of the 2002 Act the burden falls upon the respondent to establish that interference with article 8 rights is justified and proportionate.

21. The appellant applied for indefinite leave to remain on 27 June 2018. She was informed on 26 January 2019 that she was ineligible for indefinite leave to remain, being subject to a deportation order.

22. On 26 February 2019 the appellant applied for a 'right of abode.' By a letter dated 12 July 2019 the respondent informed the appellant that she did not enjoy a right of abode.

vii. Latest application for leave to remain/ revocation of deportation order

23. The appellant applied for further leave to remain on human rights grounds on 5 August 2019 and later served further submissions dated 27 September 2019. She relied upon her residence with her elderly parents and her providing care to them.

24. By a decision dated 28 November 2019, the respondent refused the appellant's application. It was accepted that the appellant was not a persistent offender, and her offence did not cause serious harm, so paragraph 398 of the Immigration Rules ('the Rules') was not engaged. However, it was observed that the appellant's deportation from this country was conducive to the public good.

25. The respondent concluded that the appellant enjoyed no family life in this country for the purpose of article 8 ECHR. As for her private life rights, it was noted that the appellant had been living in this country for approximately seventeen years, but she had adduced no evidence to demonstrate that she could not integrate upon return to Sierra Leone, having lived there until she was aged twenty-two. The respondent further concluded that no exceptional circumstances arose.

Decision of the First-tier Tribunal

26. The hearing came before the Judge as a remote hearing held at Taylor House on 16 July 2021. The central issues arising in the appeal were identified at [18] of the decision:

> ‘18. The appellant’s claim is primarily based on her relationship with her mother Rashidatu Bah, originally from Sierra Leone but who acquired British citizenship and who was born on 25 March 1941. The appellant also relies on her wider private life established over 18 years in the United Kingdom. The appellant claims to have lived with both her parents since 2016 and cared for them both until her father’s death in March 2020. She now claims to provide vital daily care and support for her mother, without which her mother would be required to go into a nursing or care home. This relationship is the subject matter of the article 8 ECHR family life claim. The appellant’s private life claim is based on her volunteer work in the community and close friendships.’

27. The Judge concluded that the appellant was not a credible witness, having provided inconsistent evidence in relation to key aspects of her case and so was not considered to be a witness of truth, at [82].

28. The appellant’s mother was found not to have any particular medical needs over and above her own self-reported tiredness and possessing frailties common with persons of age, including osteoporosis, at [83].

29. As the appellant resides with her mother and may be providing some practical support on a day-to-day basis, a family life was found between mother and daughter for the purpose of article 8, at [84].

30. The appellant is not estranged from her siblings either in the United Kingdom or in Africa, at [85].

31. Contrary to her assertion, the appellant speaks Fula as well as Krio and English, at [86].

32. In the balancing exercise, the Judge identified the following as factors for removal:

- The appellant has acted in disregard of domestic immigration laws since her illegal entry in 2002, at [89].
- She has been identified as an absconder by the respondent on more than one occasion, at [89].
- She is an unreliable witness, at [89].
- The public interest in her removal, as a convicted person with no lawful period of residence in this country, is high, at [89].

33. Factors in favour of the appellant remaining in this country:

- She lives with her mother, though this factor is not significant, as her mother’s needs can be met elsewhere and they can remain in contact through modern means of communication, at [90]-[91]
- She speaks English, at [94]

34. The Judge concluded:

> ‘96. In conclusion, balancing the competing public and private interests, and seeking to find a fair balance, I find that the family and private life that the appellant does have in the UK is not sufficiently strong, and there are not any exceptional circumstances in her case, to outweigh the strong public interest in the maintenance of effective immigration control and the removal of foreign nationals who commit criminal offences and therefore her removal would be a proportionate interference with those rights.’

Grounds of Appeal

35. The grounds of appeal were settled by Mr. Metzer, who represented the appellant before the Judge. They are particularised and run to sixty-three paragraphs over seventeen pages. Five grounds of challenge are advanced:

i) The First-tier Tribunal erred by failing to consider relevant evidence as to the dependence of her mother upon the appellant.

ii) The First-tier Tribunal erred by failing to consider the significance of the delay in the respondent’s consideration of the outstanding applications upon the appellant’s article 8 rights.

iii) The First-tier Tribunal applied an incorrect test concerning the separation of the appellant from her mother.

iv) The First-tier Tribunal failed to consider evidence as to the health condition of the appellant.

v) The First-tier Tribunal failed to consider the age, health and circumstances of the appellant’s mother when assessing the credibility of her witness evidence.

36. In granting permission to appeal by a decision dated 21 October 2021, Judge of the First-tier Tribunal Parkes reasoned, *inter alia*:

> ‘3. There are significant differences in the appellant’s previous claims and applications to remain in the UK and the current case. The GP’s letter referred to in paragraph 32 of the grounds did not give detail that might have been expected to explain the diagnosis, prognosis and nature of her difficulties. Given the appellant’s various failures to comply with reporting the complaint of delay has no merit. Given that the appellant is subject to a deportation order the reference to unduly harsh was not inapt, in any event the decision has to be read fairly and as a whole. The most relevant criticism is that the Judge did not consider the medical evidence relating to the appellant’s health and mental health and the reference in the decision to physical impediment may suggest that the focus was not on an important feature. In the

circumstances permission to appeal is granted and all grounds may be argued.'

Law

37. The appellant is subject to a deportation order.

38. She is not a 'foreign criminal' for the purpose of section 32(1) of the UK Borders Act 2007 as she was sentenced to a custodial term of less than twelve months: Condition 1, section 32(2).

39. Paragraphs 390 to 392 of the Rules are concerned with the revocation of deportation orders. Paragraphs 390 and 390A detail:

> '390. An application for revocation of a deportation order will be considered in the light of all the circumstances including the following:
>
> (i) the grounds on which the order was made;
>
> (ii) any representations made in support of revocation;
>
> (iii) the interests of the community, including the maintenance of an effective immigration control;
>
> (iv) the interests of the applicant, including any compassionate circumstances.
>
> 390A. Where paragraph 398 applies the Secretary of State will consider whether paragraph 399 or 399A applies and, if it does not, it will only be in exceptional circumstances that the public interest in maintaining the deportation order will be outweighed by other factors.'

40. Paragraph 398 of the Rules:

> '398. Where a person claims that their deportation would be contrary to the UK's obligations under Article 8 of the Human Rights Convention, and
>
> (a) the deportation of the person from the UK is conducive to the public good and in the public interest because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years;
>
> (b) the deportation of the person from the UK is conducive to the public good and in the public interest because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 4 years but at least 12 months; or
>
> (c) the deportation of the person from the UK is conducive to the public good and in the public interest because, in the view of the Secretary of State, their offending has caused serious

> harm or they are a persistent offender who shows a particular disregard for the law, the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A applies and, if it does not, the public interest in deportation will only be outweighed by other factors where there are very compelling circumstances over and above those described in paragraphs 399 and 399A.'

41. The respondent accepts that the appellant is not a persistent offender and that her offence did not cause serious harm. Consequent to this concession paragraph 398(c) of the Rules does not apply to the appellant as both requirements conceded by the respondent are necessary. Additionally, paragraph 398(a) and (b) does not apply as the appellant was sentenced to a six-month custodial term.

42. The test to be applied in this appeal is therefore that of 'exceptional circumstances'.

43. There is no requirement to consider the public interest through the prism of section 117C of the 2002 Act as the appellant was not sentenced to a period of imprisonment of at least four years, she was not convicted of an offence that has caused serious harm, and she is not a persistent offender: section 117D(2) of the 2002 Act.

Decision on Error of Law

44. At the outset of the hearing, we indicated to the parties our provisional view that both grounds 1 and 5 appeared to us to lack any substance but confirmed that the appellant could advance submissions on all grounds. Mr. Metzer did not pursue grounds 1 and 5 with vigour.

45. We further informed the parties that upon reading the decision we considered the Judge's assessment as to whether a family life existed between the appellant and her mother to be confused and contradictory. At [84] of her decision, the Judge found that that as mother and daughter reside together, and the appellant may be providing some practical support to her mother, 'to that limited extent I find that there is a family life between the appellant and her mother within the meaning of article 8'. However, a contrary position is adopted at [90] where it was found that there was no 'real', 'committed' or 'effective' support provided by the appellant to her mother as required. We observe that dependency is a question of fact: *AU v. Secretary of State for the Home Department* [2020] EWCA Civ 338, [2020] 1 WLR 1562. As both the appellant and her mother are adults, the establishment of a family life for the purpose of article 8 requires more than blood ties and residing together: *Kugathas v. Secretary of State for the Home Department* [2003] EWCA Civ 31, [2003] I.N.L.R. 170. The approach adopted at [84] appears to us to be erroneous. The conclusion reached at [90] identifies no family life existing. Such inconsistency is unfortunate. We confirmed to the parties that fairness required us to proceed for the purpose of the hearing on the basis that family life was engaged, because regardless

as to the conclusion reached at [90], the Judge proceeded on the basis that family life had been established.

Ground 1: Failure to consider relevant evidence

46. The appellant contends that the Judge failed to consider relevant evidence as to her mother's dependency upon her, particularly a letter from her mother's GP, dated 19 January 2021, and letters of support. We observe that the Judge expressly noted the documents at [27].

47. The significant difficulty for the appellant advancing this ground is that the documents do not come close to providing support to her article 8 appeal.

48. The GP's letter simply states that since the death of her husband, the health of the appellant's mother has deteriorated, she is 'housebound', and that she is 'fully dependent' on the appellant 'for all her activities of daily living'. We observe in respect of being housebound, the appellant's mother confirmed in her witness statement that she is housebound because of the Covid-19 pandemic. She does not state any other physical reason for being housebound.

49. We note that whilst the GP records that the appellant is registered at the practice, no detail is given as to whether the appellant's mother is also a patient. No detail is given as to relevant health concerns relating to the appellant's mother. The stated 'deterioration' is not quantified. No explanation is given as to the basis of knowledge in respect of the appellant's mother being dependent upon her daughter.

50. Consequently, we consider the letter from the GP to possess little, if any, evidential weight.

51. In respect of the letters of support, the height of Mrs. Aisha Isatu Ali's evidence is that she was informed by the appellant that 'her mother is ailing and also needed her support' and 'her ailing widowed mother has no one beside her.' Ms. Elif Zarali simply details that the appellant has shown 'love and care for her parents and always responsible with the well-being of her parent taking good care of her parents with all her heart.' Isatu Jah states 'for as long as I have known her, [the appellant] has been taking care of her elderly parents showing resilience even when times are extremely tough.'

52. We are satisfied that the authors of the letters address the relationship between the appellant and her mother in vague terms and are reliant upon information provided by the appellant herself. The authors of the letters do not state that they are regular visitors and observe the interaction of mother and daughter at home. In the circumstances, the GP letter and the letters of support are simply not capable of enjoying the weight asserted by the appellant, namely that they provide 'considerable independent support' for the proposition that the appellant's mother is substantially dependent upon the appellant. This ground of appeal is dismissed as being without merit.

Ground 2: Delay on the part of the respondent

53. The appellant contends that the Judge did not properly consider the significance of delay by the respondent in considering her applications over the years and the extent to which such delay affected the article 8 balancing exercise.

54. The appellant contends that her article 8 claim was materially strengthened and the public interest in her removal substantially reduced consequent to considerable delay on the part of the respondent in taking removal action at several points between 2003 and 2019.

55. In respect of article 8 and delay in immigration matters, the appellant relies upon the observations of Lord Bingham in *EB (Kosovo) v. Secretary of State for the Home Department* [2008] UKHL 41, [2009] 1 AC 1159, at [14]-[16], as well as the Court of Appeal judgment in *MN-T (Columbia) v. Secretary of State for the Home Department* [2016] EWCA Civ 893, per Jackson LJ at [41]-[42]:

> '41. I should perhaps add this in relation to delay. As a matter of policy now enshrined in statute, the deportation of foreign criminals is in the public interest. The reasons why this is so are obvious. They include three important reasons:
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> 1. Once deported the criminal will cease offending in the United Kingdom.
>
> 2. The existence of the policy to deport foreign criminals deters other foreigners in the United Kingdom from offending.
>
> 3. The deportation of such persons expresses society's revulsion at their conduct
>
> 42. If the Secretary of State delays deportation for many years, that lessens the weight of these considerations. As to (1), if during a lengthy period the criminal becomes rehabilitated and shows himself to have become a law-abiding citizen, he poses less of a risk or threat to the public. As to (2), the deterrent effect of the policy is weakened if the Secretary of State does not act promptly. Indeed lengthy delays, as here, may, in conjunction with other factors, prevent deportation at all. As to (3), it hardly expresses society's revulsion at the criminality of the offender's conduct if the Secretary of State delays for many years before proceeding to deport.'

56. We agree that this issue was raised before the Judge by Mr Metzer, being summarised at [53] of the decision, and was not considered. Such failure is an error of law. The question for us is whether it is a material error.

57. The respondent took a preliminary step to remove the appellant in 2002 but was prevented from taking any further step upon being required to consider the appellant's asylum application. Consequently, no steps in relation to removal could be taken by the respondent until the appellant

became appeal rights exhausted in August 2003. The appellant was aware throughout this time that she enjoyed no right to reside in this country.

58. The appellant was an absconder between 28 May 2004 and her application for indefinite leave to remain on 9 July 2007, a period of over thirty-seven months. This application was refused in November 2007 and the appellant remained aware that she enjoyed no lawful status in this country. A fresh asylum claim was made in December 2008, but by this time the appellant had presented a false identity document to a work agency and in 2010 she received a custodial sentence. The respondent expeditiously took steps to deport the appellant, who was unsuccessful on appeal and became appeal rights exhausted on 30 November 2011. We consider that at this time the appellant remained aware that she had no lawful right to be in this country, and there had been no delay on the part of the respondent that weakened the public interest in her deportation.

59. The appellant was again recorded as an absconder on 22 December 2011, having failed to report. She resurfaced by submitting an application for leave to remain on 3 April 2014, some twenty-seven months after she failed to comply with reporting requirements. The respondent took almost two years to consider the application. We note that the respondent was not under time constraint to issue a decision, and two years is not manifestly excessive. The appellant was aware that the respondent intended to deport her and enjoyed no reasonable belief that simply by being present in this country alone she could avoid deportation.

60. We note that delay and maladministration are not to be equated, without more, with unlawfulness: *R (FH) v. Secretary of State for the Home Department* [2007] EWHC 1571 (Admin), at [30]

61. The respondent proceeded to refuse the application and certify it under section 94B of the 2002 Act. We agree that the respondent held a reasonable belief that the exercise of an appeal by the appellant from Sierra Leone would be effective, being entitled to rely upon the Court of Appeal judgment in *R (Byndloss) v. Secretary of State for the Home Department* [2015] EWCA Civ 1020, [2016] 1 W.L.R. 1961 where it was held that an out-of-country appeal would meet the procedural requirements of article 8 in most criminal deportation cases. Whilst the Supreme Court reversed the decision of the Court of Appeal in *Kiarie and Byndloss v. Secretary of State for the Home Department* [2017] UKSC 42, [2017] 1 WLR 2380, concluding that the burden fell upon the respondent to establish that an effective appeal could be pursued from abroad, we are satisfied that the respondent was entitled to rely upon the previously understood position up to the handing down of the Supreme Court judgment and could properly rely upon legal advice: *Hysaj (Deprivation of Citizenship; Delay)* [2020] UKUT 128 (IAC), [2020] Imm AR 1044, at [61].

62. A year passed before the appellant applied for settlement. We consider such application to be hopeless from its instigation as the appellant was subject to a deportation order. A short period of time later, the appellant

was informed that she was ineligible to apply for settlement. A month later the appellant sought recognition that she enjoyed a right of abode. Again, we consider the application to have been hopeless from the outset and it was rejected a few months later. One month after the rejection of her right of abode application, the appellant made the application from which this appeal arises. It was considered within two months and refused in November 2019.

63. Upon careful consideration of the relevant chronology, we conclude that at no time could the appellant reasonably believe that the respondent did not intend to remove her and from 2010 deport her. She has absconded twice, made multiple applications some of which enjoyed no merit, and whilst on occasion the respondent took time to consider outstanding application(s), such time comes nowhere close to establishing that she was subject to a dysfunctional system yielding unpredictable, inconsistent and unfair outcomes or that such delay permitted her to develop closer personal and social ties and to establish deeper roots in the community than she could have shown earlier. In the circumstances, the Judge's error was not material, and this ground is dismissed.

Ground 3: Application of an incorrect test

64. Mr. Metzer submitted that the Judge applied an incorrect test when considering the effect of removal, namely incorporating an erroneous 'unduly harsh' assessment which derives from section 117C(5) of the 2002 Act, concerned with foreign criminals. Mr. Metzer stated that the error was material as the 'unduly harsh' test connotes an elevated threshold: *HA (Iraq) v. Secretary of State for the Home Department* [2020] EWCA Civ 1176, [2021] 1 WLR 1327, at [51].

65. Mr. Metzer conceded, and we observe he was correct to do so, that on its own such error in this matter was not determinative of the appeal, and the appellant required additional grounds to be established.

66. We agree that an erroneous test was applied at [91] of the Judge's decision:

> '91. I do not accept that her mother's needs could not reasonably be met elsewhere, she has a son who is a British citizen living in the UK lawfully and it is likely he would come to his mother's aid if she were alone. It would not be unduly harsh for the appellant's mother if her daughter was to return to Sierra Leone. The appellant would be able to have contact with her mother through the usual channels of communication available to family members living apart from each other and through this channel they can continue to provide emotional support for each other as necessary.'

67. However, we are satisfied that such error was not material. The consideration of exceptional circumstances is a holistic assessment and the key conclusion in respect of mother and daughter being separated,

unaffected by the error, was that the mother would secure appropriate support from her son in this country upon the appellant's departure. The circumstances arising in this case are such that exceptional circumstances do not arise upon the separation of mother and daughter where the mother continues to secure access to care and support from other members of the family, and emotional support can be received from the appellant via modern means of communication. This ground is dismissed.

Ground 4: Failure to consider the appellant's health condition

68. The appellant asserted that the Judge failed to consider relevant medical evidence before assessing credibility and concluding that the appellant's removal would not be disproportionate.

69. Reliance was primarily placed upon a letter from Mr. Thomas Woodward, Talk Changes City & Hackney Improving Access to Psychological Therapies (IAPT) Service, dated 1 October 2020 and a letter from the appellant's GP, dated 19 January 2021.

70. Mr. Woodward confirmed by his letter that an assessment was undertaken following a referral, and the appellant self-reported being low in mood due to difficulties with her immigration status and finances. He recorded the appellant stating that she had experienced recent thoughts of ending her life, though no specific plans had been made to act upon such thoughts. Mr. Woodward referred to a risk management plan being agreed, though no written plan was placed in the appellant's bundle and no corroborative evidence was provided as to the appellant having any further engagement with Talk Changes since the assessment in September 2020. The First-tier Tribunal hearing was conducted ten months after this date.

71. The GP letter refers to the appellant suffering anxiety and depression, with an initial diagnosis of PTSD. The appellant is confirmed to have been 'on and off' various anti-depressants and currently prescribed Sertraline (50mgs).

72. We are satisfied that the evidence relied upon is extremely limited. Mr. Woodward recorded information provided by the appellant, and we note there is no reference by her GP to the appellant having had thoughts of suicide over a period of four years. Further, there is a clear discrepancy between the information provided to Mr. Woodward by the appellant that her low mood is rooted in her unsettled immigration status and financial worries, and her informing her GP that she has nightmares arising from the Sierra Leone Civil War of 1991 to 2002.

73. We conclude that if there were an error on the part of the Judge, and we are not satisfied there was, it was not material. We agree that the evidence relied upon is not capable of establishing that there are obstacles to the appellant's re-integration in Sierra Leone upon her return, nor is it capable of establishing the adverse credibility findings as being flawed. There have been significant discrepancies in the appellant's evidence over many years, and no cogent expert evidence has been provided detailing that they flow

from anxiety, depression or PTSD. The Tribunal would be naïve to discount the possibility that an individual facing removal from the United Kingdom might wish to fabricate or exaggerate symptoms of mental illness, in order to defeat the respondent's attempts at removal, and so GP records may be useful in detailing a specific record of presentation: *HA (expert evidence; mental health) Sri Lanka* [2022] UKUT 00111 (IAC). We observe that save for the GP's letter, no further GP evidence was placed before the Judge. Upon careful consideration this ground enjoys no merit and is dismissed.

Ground 5: Failure to consider the mother's age, health and circumstances when assessing her credibility.

74. Mr. Metzer confirmed that he relied upon the written grounds and added no more. He was correct to adopt such approach as we are satisfied that there is no merit to this ground.

75. The challenge is directed towards [77] - [81] of the Judge's decision where significant discrepancies in evidence are addressed:

> '77. In oral evidence the appellant claimed to have three brothers and no sisters. Her mother claims to have two daughters (including the appellant) and one son.
>
> 78. The appellant has provided details for her parents and siblings in 2003 and 2010 as compared to the evidence submitted on her behalf in 2020. The respective birth dates for her parents are 20 years apart which is a significant difference.
>
> 79. With regards to the language(s) spoken, the appellant claims she cannot speak Fula and that she communicates with her mother in Krio. Her mother's evidence was that she and the appellant only communicate in Fula as the mother cannot speak Krio.
>
> 80. Mr. Metzer submitted that these inconsistencies with regards to language and family members were not material. I cannot agree with him. The appellant claims to have a substantial family life with her mother. She says of the relationship "*I have always been exceptionally close to my mother"* … It is fundamental to a genuine relationship of the kind claimed by the appellant that there would be a consistency on issues such as the number of siblings the appellant had or how many children her mother had given birth to and the language they use to communicate with each other on a daily basis.
>
> 81. I do not find it credible that the appellant would have made such errors by accident or mistake. The appellant has been internally inconsistent to a significant degree with regards to the constituent members of her family. She wishes to rely on those relationships to support her current appeal.'

76. The ground as advanced is that evidence placed before the Judge confirmed that the mother's health has severely deteriorated and that her memory was affected. The Judge is criticised for not considering such

concern when assessing credibility. We conclude that there is no merit in this ground. The mother was called by her daughter to give evidence and no reference to vulnerability, particularly as to impaired memory, was raised before the Judge.

77. The core of the Judge's concern was as to the reliability of the appellant's evidence. It was not irrational for the Judge to accept the evidence of the appellant's mother as to how many children she had and their gender, particularly when the appellant has given varied details over the years: having one sister and two brothers in her 2003 screening interview, having four brothers in her 2010 screening interview, and having three brothers at the hearing in 2021.

78. We observe that the appellant is ethnically Fula and note that a Fula interpreter was requested and secured for the aid of her mother at the First-tier Tribunal hearing. We are satisfied that the Judge gave cogent reasons for concluding that the appellant was not truthful in her evidence that mother and daughter only spoke to each other in Krio and that she did not speak Fula. This ground of appeal is dismissed.

Notice of Decision

79. The making of the decision of the First-tier Tribunal promulgated on 5 August 2021 did not involve the making of a material error of law.

80. The appellant's appeal is dismissed.

Signed: *D O'Callaghan*
Upper Tribunal Judge O'Callaghan

Date: 3 May 2022

TO THE RESPONDENT
FEE AWARD

The appellant's appeal is dismissed. No fee award is made.

Signed: *D O'Callaghan*
Upper Tribunal Judge O'Callaghan

Date: 3 May 2022