IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005418
First-tier Tribunal No: HU/52602/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 20 August 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

Celestina Morgan
(NO ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Schwenk
For the Respondent: Mr McVeety, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 13 August 2024

DECISION AND REASONS

1. The appellant, a female citizen of Ghana, arrived in the United Kingdom on a working holiday visa in June 2005. She has resided her ever since. Her visa expired in June 2007 and the appellant became an illegal overstayer. She sought to regularise her status in October 2018 by applying for leave to remain on private life grounds. Her application was refused on 8 April 2022. She appealed to the First-tier Tribunal which allowed her appeal. The Secretary of State appealed to the Upper Tribunal which, following an initial hearing before Deputy Upper Tribunal Judge Hanbury in Jue 2023, set aside the First-tier Tribunal's decision and directed a resumed hearing *de novo.* Following a transfer order, that hearing took place before me at Manchester on 13 August 2024. Mr McVeety, Senior Presenting Officer, appeared for the Secretary of State and Mr Schwenk of counsel for the appellant.

2. Deputy Upper Tribunal Judge Hanbury found that the First-tier Tribunal Judge had erred in law by giving excessive weight to matter of alleged delay on the part of the respondent. This error had unbalanced the Tribunal's evaluation. Absent the matter of delay, First-tier Tribunal Davies [48] had found that ' While I accept that the Appellant will face significant difficulties and upheaval on return, I conclude that her circumstances do not reach the elevated threshold of "very significant obstacles." In my judgment, she does not satisfy the requirements of paragraph 276ADE(1)(vi) although comes close to doing so.' Having set aside Judge Davies's decision, Deputy Upper Tribunal Judge Hanbury [18] considered it appropriate to permit the appellant to produce additional evidence 'limited to the issue of her claim to a private life in the UK and to events since the decision of the First-tier Tribunal.'

3. The appeal turns on the question whether the appellant would face very significant obstacles to her integration in Ghana (paragraph 276 ADE(1) (vi) of the Immigration Rules).

4. The appellant has not produced a further witness statement. She has provided a GP medical report dated 1 August 2024. This discusses the same medical problems (including depression, hypertension, infertility) from which she had suffered for some time and which Judge Davies had considered two years ago in September 2022.

5. Mr Schwenk submitted that (i) 2 further years had elapsed; the appellant has now been resident in the United Kingdom only 10 months short of 20 years in total; (ii) the GP had found that return to Ghana would make the appellant's medical conditions worse; (iii) the appellant would, after such a long absence from Ghana, be unable to integrate in society there in the way indicted by the Court of Appeal in *Kamara* [2016] EWCA Civ 813 ('The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.') (iii) the appellant would be a stranger to any community in Ghana and would face the stigma of being a childless woman (iv) although there can be no advantage for the appellant on the basis of a 'near miss' in terms of her long residence, the length of time she has been in the United Kingdom (now more than 19 years) was a factor in the Article 8 ECHR analysis (see *SS Congo* [2015] EWCA Civ 387).

6. I acknowledge that the facts of this case 'come close' as First-tier Tribunal Judge Davies found two years ago to crossing the threshold of very significant obstacles to the appellant's integration in Ghana. However, it

is clear that, had Deputy Upper Tribunal Judge Hanbury remade the decision at the initial hearing rather than direct further evidence, then the only possible outcome would have been the dismissal of the appeal. That is so because the First-tier Tribunal had clearly concluded that, absent the issue of delay, the appellant's circumstances did not show that there were very significant obstacles to integration. In the 13 months which have elapsed since Deputy Upper Tribunal Judge Hanbury's decision on error of law, very little has changed in the appellant's circumstances. Her medical problems have continued but they do not appear to have worsened and are adequately managed. The appellant has said no more in her evidence regarding her private life despite being given (perhaps exceptionally) a further opportunity to do so. Consequently, I am inclined to agree with Mr McVeety that the only new factor in the appellant's favour is 'the march of time'; the appellant has spent another year since the initial hearing awaiting determination of her immigration status but otherwise her circumstances are unchanged.

7. In my opinion, the fact that the appellant has now been in the United Kingdom for 19 as opposed to the 17 years she had accumulated by the time of the First-tier Tribunal hearing is not, absent any other factor, enough to establish that the obstacles that she would face on return to Ghana would be insurmountable. I accept, as did Judge Davies, that the appellant will ' will face significant difficulties and upheaval on return' but I do not find that the she will face very significant obstacles. Those difficulties may include the possibility of encountering some social isolation on account of being a childless stranger in Ghanaian society. On the other hand, she has the benefit of an education at degree level and her experience of working in the voluntary charity sector whilst she has been living in the United Kingdom which may assist in her integration. As the facts stand at the date of the resumed hearing before me, I do not find that the appellant satisfies paragraph 276 ADE(1)(vi) of the Immigration Rules. I note in conclusion that, if she does not leave or is not removed before June 2025, she may consider making a further application to the respondent. However, that will in due course be a matter for the appellant herself and her advisers.

Notice of Decision

I have remade the decision. The appellant's appeal against the decision of the respondent dated 8 April 2022 is dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 13 August 2024