



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/00516/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 26 January 2018

**Decision &
Promulgated**

On 5 March 2018

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

**MR STEPHEN FORDJOUR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms N Nnamani, Counsel instructed by Simon Bethel Solicitors

For the Respondent: Mr S Staunton, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from the decision of First-tier Tribunal Judge Kainth promulgated 16 April 2017. The appellant is a citizen of Ghana born on 4 April 1979 who appealed a decision of the Secretary of State dated 9 September 2014 to refuse him leave to remain in the United Kingdom.
2. The overall tenor of the determination is distinctly disorderly and unhelpful. It confuses and conflates consideration under the Immigration Rules with the broader, yet separate, consideration of

human rights matters under the structured approach of **Razgar v Secretary of State for the Home Department [2004] UKHL 27.**

3. Permission to appeal was granted by Judge Hollingworth on 15 December 2017. He found force in the two principal grounds advanced by Counsel on behalf of the appellant.
4. The first concerned the paucity of reasoning in relation to what constituted an insurmountable obstacle to the appellant's return to Ghana. The only matter which seems to feature in the assessment of the judge was the fact that the appellant spoke the local language. Any more detailed consideration of integration in respect of someone who had been absent from the country for a decade and a half and had established a long-term and meaningful relationship elsewhere with little by way of family in his country of origin is singularly lacking. Mr Staunton for the Secretary of State entirely properly conceded the inadequacy of the determination in this regard.
5. The second ground, broadly stated, concerns the manner in which the judge dealt with family life and in particular the relationship of the appellant with his natural son J and with the daughter of a previous partner, namely C. There was material before the judge concerning the involvement of the appellant in the life and upbringing of these children but it does not feature, save in the most cursory way, in the reasoning of the judge. Equally, and perhaps more significantly, there is no reference to the welfare of the children which under section 55 of the Borders, Citizenship and Immigration Act 2009. On this ground also, Mr Staunton conceded the inadequacy of the determination.
6. So significant are the two flaws which I have briefly identified that it is not open to the Upper Tribunal to remake that decision. The issues go to the very core of the appeal and the proper course is for the matter to be remitted to the First-tier Tribunal. It may be, however, that on a proper consideration of the evidence, applying the law as it should have been applied, the same conclusion is reached.

Notice of Decision

- (1) On the basis of the errors of law identified above, the decision of the First-tier Tribunal is set aside.
- (2) The appeal is remitted to the First-tier Tribunal at Hatton Cross to be determined afresh by a judge other than Judge Kainth.
- (3) No anonymity direction is made.

Signed *Mark Hill*

Date

23 February 2018

Deputy Upper Tribunal Judge Hill QC