



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

Appeal Number: PA/08499/2018

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 27 February 2019**

**Decision & Reasons Promulgated  
On 12 March 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

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

Appellant

**and**

**OMO  
(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr Diwnycz, Senior Home Office Presenting Officer  
For the Respondent: Mr Dingley, instructed by Ison Harrison, solicitors

**DECISION AND REASONS**

1. The respondent was born in 1984 and is a female citizen of Gabon. Her child (S) was born in 2010 both the appellant and S entered the United Kingdom's visitors in July 2016. She applied for international protection in January 2018 and, by a decision dated 21 June 2018, Secretary of State refused her application. She appealed to the First-tier Tribunal which, in a decision promulgated on 29 August 2018, allowed the appeal on asylum and human rights grounds (Article 8 ECHR). Secretary of State appeals, with permission, to the Upper Tribunal.

2. The respondent has given an account of attending rallies and meetings in Gabon in support of the opposition leader, Jean Ping. Although not a political activist, she claims to have come to the attention of government authorities. The judge found that the appellant gave an 'extremely detailed, vivid and compelling account' [37]. She had also produced documentary evidence showing that both she and the opposition leader originate from Kongo, Gabon. She provided a newspaper report in support of her claim. Judge refers in her decision at [41] to country material detailing unrest in Gabon during and following the 2016 election. She found that the respondent's account was consistent with that material. The judge accepted written evidence from the *Conseil Gabonaise de la Resistance* (CGR), described in the decision as the 'opposition organisation in exile'. A letter from CGR describes the respondent as one of several individuals who had been threatened by the 'tyrannical regime in Gabon.' The judge concluded that the appellant had left Gabon because of her imputed political opinion which exposed her an objectively well-founded fear of persecution.
3. The grounds of appeal, in essence, challenge the judge's credibility findings. There is, in my opinion, little merit in the disagreement in the grounds with the judge's characterisation of the Secretary of State's main challenge to the respondent's credibility having been her failure to mention her political problems during her screening interview. The Secretary of State contends that that was only a secondary factor, his main argument being that the respondent's account was inconsistent with background country information. Whether the judge was right to characterise the Secretary of State's challenges to the appellant's evidence in this way, the fact remains that the judge has dealt with both the appellant's delay in claiming asylum and is also examined the respondent's evidence in the context of the country material. The result of her analysis was that she found the respondent's account truthful and accurate.
4. A number of rhetorical questions are posed in the grounds of appeal seeking clarification and querying parts of the respondent's evidence. I agree with Mr Dingley, who appeared for the respondent before the Upper Tribunal, that the presenting officer at the First-tier Tribunal hearing had the opportunity to raise these matters in cross examination but failed or chose not to do so. The Secretary of State has not identified an error in the decision now by raising matters of which neither the respondent nor the judge had notice at the time of the First-tier Tribunal hearing.
5. I agree with the Secretary of State that it is sometimes unclear what form supporting evidence for the respondent's claim was received by the judge. However, read as a whole, I find that the judge has conducted an adequate analysis of the credibility of the appellant's evidence. As I have noted above, the grounds raise matters which should have been raised at the hearing before the judge or constitute disagreements with the judge's findings, which were unarguably available to her on the respondent's evidence and country material.

6. The Secretary of State also challenges the judge's findings as regards Article 8 ECHR. At [47], the judge allows the appeal on Article 8 ECHR grounds primarily, if not solely, on account of S's best interests (see section 55 of the Borders, Citizenship and Immigration Act 2009). The analysis here is inadequate and the reasoning not entirely clear. Indeed, it is uncertain whether the judge has allowed the appeal on Article 3 or 8 grounds. However, given that I can identify no material error in the judge's analysis of the appeal on asylum grounds I shall leave the Article 8 ECHR analysis undisturbed.

**Notice of Decision**

7. The Secretary of State's appeal is dismissed.

Signed

Date 7 March 2019

Upper Tribunal Judge Lane