



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/12988/2019
(V)**

THE IMMIGRATION ACTS

**Heard at: Field House
On: 1 February 2021**

**Decision & Reasons
Promulgated
On 15 February 2021**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

ANAGLATE [A]

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Rana, instructed by Cardinal Solicitors

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This has been a remote hearing to which there has been no objection from the parties. The form of remote hearing was skype for business. A face to face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing.

2. The appellant is a citizen of Ghana, born on 28 August 1976. She has been given permission to appeal against the decision of the First-tier Tribunal

dismissing her appeal against the respondent's decision to refuse her application for leave to remain in the UK.

3. The appellant entered the UK on 22 February 2008 with a six-month visit visa and overstayed. She was encountered on 3 July 2017 on an enforcement visit and was served with removal papers. On 6 July 2017 she made a human rights claim.

4. The appellant's claim was made for the most part on medical grounds, under Articles 3 and 8, in relation to her mental health condition. It was stated that she suffered from Bipolar Affective Disorder and had been briefly sectioned in 2015, since which time her condition had been managed by medication provided by her GP. She also suffered from type 2 diabetes which required medication.

5. The respondent, in refusing the claim in a decision of 25 July 2019, did not consider that her condition met the Article 3 threshold and considered there to be some medical treatment available to her in Ghana. As for Article 8, the respondent considered that the appellant could not meet the family and private life requirements in Appendix FM of the immigration rules and that her circumstances were not such as to justify a grant of leave outside the immigration rules.

6. The appellant's appeal against that decision was heard by First tier Tribunal Judge Abebrese on 17 December 2019. The judge heard from the appellant and from her representative. He did not consider that her medical condition was sufficient to meet the Article 3 threshold and neither did he find there to be any very significant obstacles to integration in Ghana for the purposes of paragraph 276ADE(1) or compelling circumstances outside the immigration rules for Article 8 purposes. The judge accordingly dismissed the appellant's appeal on human rights grounds.

7. The appellant sought permission to appeal to the Upper Tribunal on the grounds that the judge had failed properly to consider the medical evidence and the appellant's documents and had erred by expecting the appellant to research medical facilities in Ghana when she was not mentally able to do so.

8. Permission was granted in the First-tier Tribunal and the matter then came before me.

9. Mr McVeety accepted that the judge's decision had to be set aside for the reasons given in the grounds and the grant of permission. Both parties requested that the matter be remitted to the First-tier Tribunal for a fresh hearing before another judge.

10. I entirely agree with that concession and consider the grounds to be made out. The judge's decision fails adequately to address the evidence, provides inadequate reasoning and lacks a full and proper assessment of the impact on the appellant of the refusal decision in terms of her human rights. In the

circumstances, and as the parties requested, I remit the case to the First-tier Tribunal to be heard *de novo*, with no findings preserved.

DECISION

11. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(a), before any judge aside from Judge Abebrese.

Signed S Kebede
Upper Tribunal Judge Kebede
2021

Dated: 1 February