IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-001659
First-tier Tribunal No: HU/03009/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 12 April 2023

Before

UPPER TRIBUNAL JUDGE LANE

Between

OLUBUNMI JELUGBO
(NO ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

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

Heard at Manchester Civil Justice Centre on 21 February 2023

DECISION AND REASONS

1. The appellant is a female citizen of Nigeria who was born on 2 September 1988. She entered the United Kingdom illegally as a child in February 2005. Her application to remain in the United Kingdom on private life grounds was refused by the Secretary of State by a decision dated 27 May 2021. She appealed to the First-tier Tribunal, which, in a decision promulgated on 25 January 2022, dismissed the appeal. the appellant now appeals, with permission, to the Upper Tribunal.

2. It is unfortunate that this appeal has been subject to a number of careless errors on the part of First-tier Tribunal judiciary. First, as the grounds of appeal point out, the judge determining the appellant's appeal has fallen into what might be described as 'cut and paste' or 'template' error at [48-49]. The appellant, a citizen of Nigeria, will quite understandably have been puzzled to learn that 'she has family in Sri Lanka' [49] and that she 'would not be enough of insider in terms of how life in Sri Lanka was carried out (*sic*) that she would no be able to participate in it', a statement which, quite apart from the reference to the wrong

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country of nationality, effectively means the opposite of what the author intended.

3. These are unnecessary errors which do little to inspire confidence in the degree of care taken in preparing the decision. However, I am not satisfied that referring to the wrong country or creating semantic confusion by the use of double negatives amount to errors of such severity that the judge's decision is vitiated by them. Notwithstanding the careless mistakes, the judge's reasoning remains tolerably clear; I am satisfied that the judge has been aware throughout that the appellant is a citizen of Nigeria not Sri Lanka. Mr Chimpango, who appeared for the appellant before the Upper Tribunal, did not make any oral submissions in respect of this part of the grounds.

4. A failure to concentrate on relevant matters, in particular actual the text of the grounds of appeal, also mars the grant of permission. Designated Judge Shearf wrote:

> It is arguable the Judge erred in law by not taking into account that the Appellant has sickle cell disease and thalassaemia (there was little evidence as to the gravity of this and its impact on her life) and will be returning to Nigeria as a single woman. The Judge's decision does not state whether the Appellant has any family in Nigeria to support her on return and assist her in finding employment.

The reference to sickle cell disease and thalassaemia is curious since there is no reference in the grounds of appeal to these or any other medical conditions of the appellant. At the initial hearing, Mr Chimpango told me that the appellant does suffer from sickle cell disease but that it is mild and she does not rely on it as a relevant factor in any Article 8 ECHR assessment. Judge Shaerf also writes that the appellant 'will be returning to Nigeria as a single woman. The Judge's decision does not state whether the Appellant has any family in Nigeria to support her on return and assist her in finding employment.' At [8] of her application to the Secretary of State for leave to remain on private life grounds, the appellant was asked 'What family or friends do you have in the country where you were born and/or any other country whose nationality you hold?' She stated, 'Parents.' A judge dealing with a paper permission application may be forgiven for not scrutinising every document in the file before him or her but the grounds of appeal do not claim that the appellant would be returning as a single woman so it is not clear why the judge should have raised the matter of his own volition.

5. In essence, what the grounds do assert is that, having come to the United Kingdom as a teenager, the appellant has spent most of her life here and has formed many strong relationships in her community; the bulk of the evidence in the appellant's bundle of documents consists of statements and letters of support from friends, a sibling, a cousin and a brother in law. She has completed her tertiary education without 'being asked about her immigration status.' The grounds record that, 'The FTT Judge also accepted that the appellant has lived for the rest of her life in the UK and is now 33 years old and that she has received a good education and has made friends in the UK and has over many years undertaken charitable work in the community in the form of selflessly tutoring over 80 people, resulting in their passing exams, getting university places and sometimes gaining employment.' Notwithstanding these findings, 'the FTT Judge conducted his proportionality test in exclusion of these unique and exceptional circumstances of the appellant's case. The FTT's Judge's approach shows lack of appreciation of the disproportionality of the decision to remove the appellant

from the United Kingdom.' In addition, the appellant argues that return to Nigeria 'poses a high risk to her safety and security, both as a young woman and as someone who would be perceived to be well-off if arriving from the UK due to the rampant rate of kidnappings and killings for ransom.'

6. The parties agree that the appellant cannot succeed in a claim to remain under the Immigration Rules concerning private life. She cannot meet the requirements of paragraph 276ADE as she has not lived in the United Kingdom for more than 20 years. On the facts, it was open to the judge to conclude that, despite having been absent from the country for many years, the application would not face very significant obstacles to her integration in Nigerian society; the grounds of appeal emphasise the appellant's links within the United Kingdom rather than any inability to integrate on return. The return of the appellant to Nigeria will not rupture links with close family members who will remain here; she has adult siblings in the United Kingdom but there is no evidence to indicate that her relationships with them are so close as to engage Article 8 ECHR. Moreover, the appellant can establish new private life relationships in Nigeria as the judge finds at [48]; she can, in effect, take her private life with her. It will no doubt be difficult for the appellant, who has spent her adult life in the United Kingdom, to readjust to life in Nigeria but I cannot say that the judge was wrong in law to conclude that such 'culture shock', as he describes it, would amount to a disproportionate breach of the appellant's right to private life.

7. Mr Chimpango concentrated in his oral submissions on the strength of the appellant's private life in the United Kingdom. He made no mention of the threat of kidnapping in Nigeria. It is not clear if this issue was ever raised before the First-tier Tribunal. It is not referred to in the appellant's skeleton argument before the First-tier Tribunal or in her witness statement. I am not satisfied that the issue of kidnapping was ever put before the First-tier Tribunal judge who cannot be criticised for making no mention of it.

8. In my opinion and despite the careless errors at [48-49], the judge has considered all the relevant evidence and has reached a decision open to him on the evidence. The grounds (as opposed to Judge Shaerf's inaccurate grant of permission) do not disclose any error of law in the decision. Accordingly, I dismiss the appeal.

Notice of Decision

The appeal is dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 22 February 2023