



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

Appeal Number: AA/00571/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 17 December 2013**

**Date Sent
On 31 January 2014**
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Before

UPPER TRIBUNAL JUDGE KING TD

Between

MISS ZS

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Iqbal, Counsel instructed by Barnes Harrild & Dyer Solicitors

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Sierra Leone, born on 1 October 1992.
2. The appellant left Sierra Leone in April 2009, arriving in the United Kingdom five days later. She claimed asylum on 20 April 2009.

3. The application was refused on 13 October 2009 but the applicant was granted discretionary leave until 31 March 2010 as an unaccompanied minor. She submitted an application for further leave to remain on 30 March 2010.
4. By a decision of 8 January 2013 the respondent refused to grant the further leave to remain and gave directions for her removal.
5. The basis of the appellant's claim was to the effect that she was entitled to be granted refugee status, alternatively granted humanitarian protection. She further contended that her removal would be in breach of her fundamental human rights.
6. The appellant sought to appeal against the refusal, which appeal came before First-tier Tribunal Judge Herlihy on 29 May 2013.
7. The asylum appeal and that in respect of humanitarian protection were dismissed. No findings were made in respect of Articles 3 and 8 of the ECHR as the decision to remove the appellant was withdrawn by the respondent.
8. Grounds of appeal were submitted against the findings of the Judge.
9. Permission to appeal was granted. Thus the matter came before Upper Tribunal Judge Clive Lane on 21 August 2013. A note of his judgment is annexed to this determination.
10. No error was found in the determination of Judge Herlihy as to the findings which were made so far as asylum and humanitarian protection was concerned.
11. Nevertheless it was found that the Judge had been in error in failing to consider and deal with Article 8 of the ECHR.
12. Thus it was that the determination of the First-tier Tribunal was set aside with the findings of fact preserved. There was a direction however that the Upper Tribunal, upon a resumed hearing, would only re-make the decision in respect of Article 8 of the ECHR.
13. Thus the matter comes before me for that purpose.
14. There was presented for my attention a detailed bundle of statements and documents of 136 folios.
15. The appellant gave evidence. She adopted her witness statements of 1 April 2013 and 5 December 2013. She gave further evidence. She also adopted that which she had set out in her interview with the respondent in making her claim for asylum.

16. The nature of the claim which she had put forward initially which was considered by Judge Herlihy was to the effect that she was born near Kono and lived with her mother, father and younger brother. When she was 4 years old she, her mother and grandmother moved to Freetown where she attended school while her father remained near Kono, working as a minor.
17. In 1999 the family returned to the village near Kono, on holiday, at a time when the rebels attacked Kono and the village. The appellant escaped into the bush, learning subsequently that her father had been killed by the rebels and that her mother and brothers' whereabouts were unknown. She continued to live with her grandmother for seven years in Freetown and attended school. When her grandmother died in 2006 she stayed with a Mr G in Freetown who was a friend of her father's. It was he that made arrangements for her to leave in April 2009. She has not seen him since.
18. In the first statement the appellant indicated that she feared return as a lone vulnerable female, returning to a country where she has no contact with family members or other support. She said that she has made contact with the Red Cross and is awaiting an appointment with them to trace her family. She suffers from sickle cell disease and requires tablets for that condition. She has a maternal aunt in the United Kingdom who provides her with financial and emotional support. She is in her final year at South Thomas College studying B.Tech level 3 in Health and Social Care.
19. In her statement of December 2013 she says that her aunt lives in Reading and that they manage to see one another once or twice a month either in Reading or Croydon. They speak to each other by telephone two or three times a week. The aunt continues to provide financial and emotional support.
20. The appellant, at the time of the statement was nineteen weeks pregnant, the father of her child being one born in Greece having Greek residency. His family was originally from Sierra Leone but now legally reside in Greece. She met IT in the UK during May 2012 and a relationship started. He has returned to the UK on three or more occasions to see her. He currently works and studies in Greece. IT has made an application for Greek nationality and once he has obtained that he plans to move to the UK.
21. The appellant repeated in her statement that she has been in the United Kingdom since 17 April 2009 and has completed her B.Tech course. Because of her immigration status she is unable to register for university. It is her claim that her sickle cell disease is continuing and she is worried to return to Sierra Leone because of lack of healthcare facilities. She speaks of many friends who have supported and encouraged her in the United Kingdom. She has involved herself in an organisation called "Brighter Futures Youth Group". This involves regular meetings and

activities. She has also been involved in an organisation called "Drive Forward" which helps the development of care leaders. She is also a regular church attender.

22. The appellant was asked when it was that she contacted the Red Cross and she said that she had made an application to them a week before the hearing. They have yet to give her an appointment but she is on their books. Her aunt has tried to search for her mother and brother by asking questions of people that she knows but currently has not found them. As to the father of her child, he has indefinite leave to remain in Greece but is not a Greek citizen. He applied two years ago for a Greek passport but is still waiting for the outcome. He was studying in Greece and now works there. They have met four or five times and he comes generally every four months and stays for a period of time with a cousin. He studied accountancy at university although that study finished two years ago. The dates of his visits are stated as being May 2012, October 2012, December 2012, February 2013 and July 2013. When he comes he visits her every day. He stays with an uncle and cousin but visits her during the day and sometimes stays over weekends. She is sharing accommodation and therefore it is not very easy or convenient for them to be together. They hope however that they will be together as a couple. Without documentation she cannot travel to be with him.
23. She indicated that she talks with him every day when he is in Greece, talking on Skype and on the mobile. He has not attended the hearing because he is due to arrive in the United Kingdom on 18 December, he having booked his ticket to come before notification of the hearing date was given.
24. The appellant says that she lives in a house with three other boys. The organisation "Brighter Future" is to try and help lonely asylum seekers progress their cases and meet with MPs. They meet every Wednesday. The other organisation "driving forward" is a foundation for young people leaving care. She helps with others, teaching them how to find a job.
25. Her aunt is her mother's sister whom she sees once or twice a month.
26. Her pregnancy is known to the parents of "I". She speaks to them.
27. She spoke of her B.Tech in Health and Social level 3. She wishes to study midwifery when she can. She also acts as a volunteer with older people, reading to them and is active in church matters, particularly at Sunday School.
28. There are a number of letters enclosed with the documents speaking as to the appellant's situation and circumstances. In particular, there is a letter from Trupti Patel dated 7 March 2013. That witness also attended and gave evidence.

29. She has been working with the appellant for four years at the Brighter Futures Group. She says that the appellant is a committed and motivated member of the group, demonstrating initiative in leading activities for the group of young people. Brighter Future was created in 2011 to recognise the work of professionals supporting young people. She attends the day-to-day activities of the group by attending regular Wednesday evening sessions. She attended a presentation for the Human Rights Select Committee who are interested in hearing at first had about the experiences of members of the group.
30. The appellant is described as a positive and articulate young woman. The group finds formal and informal peer group mentors and seeks to promote the awareness of young refugees and of their needs. It was confirmed that the appellant spoke about her boyfriend in affectionate terms.
31. There are other letters, particularly from the Baptist Church, speaking of the appellant's work with children on Sunday mornings. There is a letter from Mrs Sharma of the South Thames College as to her studies and pleasant character.
32. There is a letter from a Mr Fullah, undated, but to be found at page 22 of the relevant bundle, speaking of the fact that he has known her since she was a girl in Sierra Leone and that she is active in volunteering her time for charity and unpaid work. The author of the letter says that he visited where she used to live in Sierra Leone and then met people who did not know who she is and had no idea where her relatives were.
33. The appellant indicated that she is seeking assistance from the Red Cross but as yet no enquiries by them have been made.
34. I bear in mind, however, in relation to potential family members or personal support in Sierra Leone, the direction of Upper Tribunal Judge Clive Lane that the Tribunal will proceed with its analysis on the basis that the appellant may have the assistance of friends or family in Sierra Leone who will assist her upon her return, as Judge Herlihy found to be the case.
35. I bear in mind the written evidence as mentioned above, but it does not go into detail as to the extent of the questioning as to the whereabouts of her family members or whether it extended beyond any narrow area. It was perhaps significant that people were said not to have recalled the appellant herself. There is also the question whether indeed the enquiries were being made in the correct area.
36. It is to be noted that the hearing before Judge Herlihy took place on 29 May 2013. The appellant and her aunt gave evidence but I can detect little reference to the relationship with IT that has now been described to me. I note a witness statement from IT, dated 11 December 2013. Although he was born in Greece, his father is from Sierra Leone and his mother from the Gambia. He is a national of Sierra Leone, awaiting for a

decision as to his being granted Greek nationality. He said he first met the appellant in the United Kingdom in 2012 and continued that relationship by telephone and on the internet in the course of the visits that have been described. The appellant is now pregnant.

37. Her relationship with IT gives a further dimension to the potential situation in Sierra Leone, providing yet further potential support for her in any return which she may make. There is the potential of her boyfriend's family, relatives of who may reside in Sierra Leone, as well as the potential for her boyfriend who is a national of that country to go and give her support and support the child. He has finished his studies in Greece and little reason has been advanced as to what he might do.
38. Indeed, when the appellant was asked as to what discussion had been made as to their future life together and where that might be she indicated that there had been very little such discussion.
39. Indeed a possibility arises for consideration whether or not, if the relationship is as durable as she claims it to be, she could not obtain leave to join IT in Greece with his family and enjoy family support. That is not something however that has been seemingly discussed between them nor indeed has the practicalities been investigated in the hearing before me.
40. In considering the aspect of Article 8 of the ECHR I focus upon the central questions as set out in the case of **Razgar**. She has a relative in the United Kingdom, namely her aunt who gave evidence before the First-tier Tribunal Judge. The appellant does not live with her aunt but lives separately in shared accommodation. I consider the case of **Kugathas** but can note no undue emotional dependency such as to create the aspect of family life. Clearly it is to be recognised that her aunt and her aunt's family provide some measure of private life for the appellant. The appellant has, to her credit, been studying and has qualifications which she seeks to take forward. I note the significant substantial contribution that she makes to the Brighter Futures Group and to the Foundation Drive Forward Group. It is clear that the appellant has much to contribute and is doing her best through the limitations imposed upon her in terms of working and studying to make a contribution.
41. I bear in mind the best interests of the, as yet unborn child, but clearly in the context of this case the best interests of the child will be to be where its mother is.
42. I note the health of the appellant but note also that sickle cell disease is one that is generally controlled by medication, although it is to be recognised that the pregnancy might make her situation a little worse.
43. In terms of support for her if returning to Sierra Leone I note the finding of the First-tier Tribunal Judge that there are family members that are there. Also, it would be entirely possible for IT to accompany her to Sierra Leone,

given that he is a citizen of that country and the father of her child. It may well be reasonable to expect in those circumstances a measure of financial support from his family in Greece if not practical family support of relatives of his as well as hers in Sierra Leone.

44. The appellant clearly has demonstrated skills, particularly in the medical sphere and midwifery is her particular desire. Such skills as I so find would be welcome and relevant in Sierra Leone. I see no reason at all why she could not put her skills and experience to good use.
45. In considering the reasonableness of return I bear in mind **SB (lone woman - PSG - internal relocation - AA (Uganda) considered) Sierra Leone [2008] UKAIT 00090**.
46. The Tribunal noted that the decision in **AA (Uganda)** was not support for the proposition that it would be unduly harsh to expect lone women to relocate to the capital city of their country or origin or any other large urban centre. Rather it is a re-affirmation that such relocation must be reasonable, in other words that it must not have the consequences upon the individual as to be unduly harsh for her. It is noted that there was significant migration to Freetown from rural areas. For migrants to Freetown those with the ability to access support would face no risk. Such support mechanism might include family or other connections or support mechanisms from other groups such as support from a church. It is noted that the appellant plays an important role in her local church in the United Kingdom. It is not unreasonable to suppose that she will likewise enjoy some support from a church in Freetown were she to be returned. An additional factor of course being that it would be entirely reasonable to expect the father of her child who is also a national of that country to return with her, certainly in the early stages, to lend support. It may well be that in the future she will gain entry into Greece to be with him and his family in that connection. I find therefore that it is reasonably likely that the appellant would not return to Sierra Leone as a sole woman in any event but even if that were the case I find that there would be family members to lend support.
47. In considering the human rights of the appellant it is necessary first to consider the Immigration Rules themselves and in particular paragraph 276ADE.
48. Clearly the appellant cannot meet the residence requirements, she did not spend at least half of her life residing in the United Kingdom.
49. I bear in mind the decision of **MF (Nigeria) [2013] EWCA Civ 1192** and also **Agundimu (Article 8 - new rules) Nigeria [2013] UKUT 00060 (IAC)**. That of course was an authority set within the context of deportation. **Maslov** was considered in that case but does not apply to this. Paragraph 399A and 398 was clearly within that context of deportation.

50. I was asked to find, however, that the relevant consideration for removal was whether or not the appellant had any “ties” in Sierra Leone which involved more than something merely remote or abstract links but rather a real connection to the country. A consideration as to whether that person has “no ties” to such a country must involve a rounded assessment of all the relevant circumstances and not be limited to “social, cultural and family” circumstances.
51. In that connection it is relevant to note the findings of the First-tier Tribunal Judge on the matter of family support and also the support of Mr G to the appellant and the fact that she left Sierra Leone relatively recently. In any event I find that IT and his potential presence is of significance in providing support for the appellant.
52. I find, notwithstanding her pregnancy, that there would be both an element of support for her already in existence in Sri Lanka and an ability to survive economically with help from the extended family in the UK or the family of her boyfriend.
53. The appellant has had the advantage of support in her formative years and has applied herself to gaining qualifications and experience. However, as the appellant fails to meet the Immigration Rules I must consider whether there are other compelling or prominent matters which would fall to be considered arising outside such Rules. I do not find that any exist in this case.
54. In all the circumstances I do not find that her removal from the United Kingdom would be disproportionate in all the circumstances. It may be that in the event her best interests would be served and that of her unborn child by going to Greece to be with her boyfriend. That is a matter, as I have indicated, which needs further consideration. It provides at first sight an alternative to her returning to Sierra Leone or indeed she may return to Freetown and thence elsewhere. However such is not a matter which informs the decision as I focus upon the return to Sierra Leone.
55. For the purposes however of Article 8 of the ECHR, I do not find that it would be disproportionate for her to return in all the circumstances. The appeal in respect of Article 8 is dismissed.
56. Thus taking into account the previous decisions that have been made and which were preserved, it falls to indicate that the appellant’s appeal in respect of asylum stands dismissed, that in respect of humanitarian protection stands dismissed and that in relation to Article 3 stands dismissed and the appeal in respect of Article 8 is now dismissed.

Signed

Date

Upper Tribunal Judge King TD