

# AA (Nigeria) (Respondent) v Secretary of State for the Home Department (Appellant)

Case ID: 2020/0203

## Case summary

### Issue

(i) What is the correct approach to the test for whether “*the effect of [a foreign criminal]’s deportation on [their] partner or child would be unduly harsh*” within the meaning of section 117C(5) of the Nationality, Immigration and Asylum Act 2002; (ii) What is the correct approach to the test for whether there are “very compelling circumstances” for not deporting a foreign criminal who had been sentenced to imprisonment for more than four years, under section 117C(6) of the same Act, and (iii) What is the relevance, if any, of evidence in relation to the foreign criminal’s rehabilitation and how much weight should tribunals accord to such evidence in the context of the above tests, in light of conflicting approaches being endorsed by the Court of Appeal in *Binbuga v Secretary of State for the Home Department* [2019] EWCA Civ 551 and *HA (Iraq) v Secretary of State for the Home Department* [2020] EWCA Civ 1176?

### Facts

AA was a 32-year-old citizen of Nigeria with no right to remain in the United Kingdom. In 2013 he was convicted of conspiracy to supply class A drugs and sentenced to 4½ years’ imprisonment. Following his release the Secretary of State made a deportation order on the ground that he was a foreign criminal. AA sought to challenge that order by relying on his right to private life under article 8 of the European Convention on Human Rights and on the rights to family life of his partner and children. The First-tier Tribunal allowed his appeal on the grounds that his deportation would disproportionately interfere with the rights of his partner and two children under article 8. The Upper Tribunal set aside the First-tier Tribunal’s decision and directed that the appeal be re-heard. Following the re-hearing the Upper Tribunal dismissed AA’s appeal against the deportation order. On AA’s further appeal the Court of Appeal reinstated the First-tier Tribunal’s decision. The Secretary of State now appeals to the Supreme Court.

### Judgment appealed

[\[2020\] EWCA 1296](#)

### Parties

#### Appellant(s)

Secretary of State for the Home Department

#### Respondent(s)

AA

### Appeal

#### Justices

Lord Reed, Lord Hamblen, Lord Leggatt, Lord Stephens, Lord Lloyd-Jones

**Hearing start date**

17 May 2022

**Hearing finish date**

18 May 2022

**Watch hearing**

17 May 2022 [Morning session](#) [Afternoon session](#)

18 May 2022 [Morning session](#) [Afternoon session](#)