



Upper Tribunal  
Immigration and Asylum Chamber

Appeal Number: IA/11678/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 3 March 2014

Promulgated on:  
On 4 March 2014

Before

Upper Tribunal Judge Kekić

Between

A J B

Appellant

and

Secretary of State for the Home Department

Respondent

**Determination and Reasons**

**Representation**

For the Appellant: Ms S Naik, Counsel

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

**Details of appellant and basis of claim**

1. This appeal comes before me following the grant of permission on 20 January 2014 by First-tier Tribunal Judge Grant-Hutchinson in respect of the determination of First-tier Tribunal Judge Beg who dismissed the appeal following a hearing at Taylor House on 16 December 2013 by way of a determination promulgated on 30 December 2013.

2. The appellant is a Nigerian national born in 1961. She appeals the decision of the respondent dated 25 March 2013 to deprive her of British nationality under section 40A of the British Nationality Act 1981.
3. The background of the case is not in dispute. The appellant entered the UK on 29 November 1987 using a false identity. She was granted leave to enter for six months but was then arrested for importing illegal drugs. Her leave was withdrawn and she was convicted and sentenced to seven years' imprisonment on 21 July 1988 with a recommendation for deportation. A deportation order was subsequently signed by the Secretary of State. In November 1989 the appellant escaped from prison.
4. On 20 April 1991 the appellant claimed asylum using a different name and nationality. Her claim was refused on non compliance grounds on 26 February 1992. It was then reconsidered and refused on 8 July 1996. An appeal against refusal was dismissed on 14 September 1998; Although the appellant's representatives maintain that by that stage the appellant had at least come clean about her true nationality, the determination of Special Adjudicator Jubber (dated 14 September 1998) indicates that he believed he was dealing with an Ivorian national although he addressed the risk of return to both the Côte d'Ivoire and Nigeria. The appellant then made an application to remain on compassionate grounds as she was caring for the two children of her sister who was a drug user. It is noted that this application concealed her true date of entry. The application was granted and she then obtained ILR on 27 March 2003. On 3 February 2006 she was granted British nationality.
5. It subsequently came to light in 2009 upon her arrest and conviction when she was fingerprinted, that the individual who had been granted nationality and the individual who was the subject of a deportation order was one and the same. The appellant admitted she had made false representations when applying for nationality and the Secretary of State made a deprivation order indicating that had she known all the facts, she would never have granted nationality to the appellant.

### **Appeal hearing**

6. At the hearing before me, Mr Jarvis conceded that the First-tier Tribunal Judge had erred in law when considering the appellant's evidence in that she had been wrong to say that there was no evidence of the attempted suicide attempts. He acknowledged that the reports in the bundle had contained that information and that the judge should have taken it into account when making her decision.
7. Given that concession, Ms Naik did not make any submissions save to say that the matter should be heard in the Upper Tribunal. She did however raise

a fresh point; that of the unlawfulness of the deprivation order. In response to her submissions on that point, Mr Jarvis indicated that he would have to take instructions and that the Secretary of State's position would be conveyed to the appellant prior to the hearing of the substantive appeal.

### **Findings and Conclusions**

8. One of the reasons the judge of the First-tier Tribunal found against the appellant on Article 8 grounds was that she had failed to establish that her mental health was such that her human rights were engaged. She relied on the absence of documentary evidence to corroborate the appellant's claim of attempted suicide. Given Mr Jarvis' concession that such evidence had been before the judge, I am obliged to find that the judge erred and that her findings and conclusions were tainted by her error. In the circumstances the determination is set aside in its entirety and fresh findings will need to be made. For that reason it is inappropriate to retain the appeal in the Upper Tribunal. I note Ms Naik's submission that there are complex issues involved and for that reason I recommend that the appeal be heard by a panel of the First-tier Tribunal chaired by a Designated Judge. In view of the issue raised about the deprivation order and a possible response from the Secretary of State, a Case Management Review hearing may be advisable. It will be for the parties to liaise with the First-tier Tribunal in that respect and express their views as to that suggestion.
9. I preserve the anonymity order made by the First-tier Tribunal.

### **Decision**

10. The First-tier Tribunal made an error of law. The decision is set aside and the matter is remitted to the First-tier Tribunal for a fresh decision to be made by a panel chaired by a Designated Judge.

**Signed:**

**Dr R Kekić**  
**Judge of the Upper Tribunal**

3 March 2014.