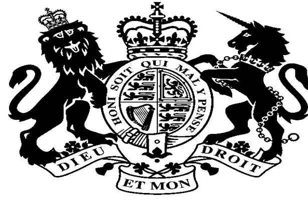
S-T



Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/34035/2013

THE IMMIGRATION ACTS

Heard at Field House
On 24 October 2014

Decision Promulgated
On 11 November 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE FROOM

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

ATEM WUAKO MBEBOH
(NO ANONYMITY DIRECTION MADE)

Respondent

Representation:
For the Appellant: Mr M Shilliday, Home Office Presenting Officer
For the Respondent: Mr A Mackenzie, Counsel

DECISION AND REASONS

1. The respondent to this appeal, Mr Mbeboh, is a citizen of Cameroon born on 25 May 1983. The appellant is the Secretary of State for the Home Department, who has appealed with the permission of the First-tier Tribunal against a decision of Judge of the First-tier Tribunal Scobbie, who allowed Mr Mbeboh's appeal against the decision to remove Mr Mbeboh to Cameroon as an overstayer, having refused him leave on article 8 grounds.

© CROWN COPYRIGHT 2014

2. It is more convenient to refer to the parties as they were before the First-tier Tribunal. I shall therefore refer to Mr Mbeboh from now on as "the appellant" and the Secretary of State as "the respondent".

3. I was not asked and saw no reason to make an anonymity direction.

4. The judge found that the appellant met the requirements of the rules on article 8 private life grounds because he was satisfied there would be very significant obstacles to the appellant's integration into the country he would have to go to (see paragraph 276ADE(vi) of HC395). The respondent sought permission to appeal on the basis the judge had erred by applying too low a test. Permission was granted by the First-tier Tribunal.

5. The appellant filed a response opposing the appeal and arguing the determination does not contain any error.

6. I heard submissions as to whether the judge had made a material error of law in his decision. Mr Shilliday relied on the grounds seeking permission to appeal. I have recorded all of his submissions. At the heart of his case was that the judge had shown in paragraph 26 that he had applied too low a test to meet the high threshold of paragraph 276ADE(vi), which requires there to be "very significant obstacles to the applicant's integration into the country he would have to go to." In paragraph 26, the judge said: "*The expert report which has not been particularly challenged on this matter quite clearly indicates that this particular Appellant would struggle to integrate into Cameroon*." Mr Shilliday submitted this was the key paragraph in respect of the judge's findings and it showed that the judge had the wrong test in mind. His decision was fundamentally flawed. He also pointed out that there was an error in the expert's assessment because she noted the appellant could not speak French, whereas the appellant could.

7. In reply Mr Mackenzie argued the words highlighted by Mr Shilliday had to be looked at in context and the judge had had the correct test in mind. The respondent's grounds amounted to no more than mere disagreement with the judge's decision. The expert had given a range of reasons why the appellant would not be able to reintegrate and the judge had been entitled to rely on these reasons to which he added some of his own. Mr Shilliday replied briefly, clarifying some of his earlier arguments.

8. I find no material error of law in the judge's decision. Both parties agreed his findings were terse. However, that is not to say they were inadequate. He plainly placed a great deal of weight on the unchallenged opinion of the expert, which he was entitled to do. At page 14 of her report, the expert listed various factors which would in her opinion show why the appellant would face numerous obstacles which would significantly hinder his reintegration. These included the fact he would lack the patronage and peer networks necessary to access suitable jobs. His lack of French would make it impossible to navigate the social and professional

milieu of his peer group. The current regime disfavours the Anglophone minority politically, socially and economically. He was raised among the expatriate community in Yaoundé. His maternal family had dispersed and he was estranged from his paternal family. It was most likely impossible for the appellant to support himself in Cameroon.

9. There was much discussion of whether the appellant could speak French and therefore whether the expert's report was based on a false premise. I do not think any error should undermine the overall effect of the expert's evidence. I also think it is likely that the reference to the appellant "not having French" has to be understood in the context of the earlier reference to his having "limited French", which is the more accurate description. The reference to his not having French should be read as meaning having French as primary language.

10. The use of the word "struggle" in paragraph 26 of the determination would, taken in isolation, indicate an incorrect test had been applied. However, the judge set out the correct test in the preceding paragraph and repeated it in paragraph 27, in which he summarised his conclusions. It is an arid exercise to pick out one instance of loose wording and to suggest the judge had applied the wrong legal test. The argument is simply unsustainable in this case for the reasons given.

11. It is also important to note the judge did not simply refer to the report but he went on in paragraph 26 to summarise the factors which led him to conclude the rule was met. In short, the judge took into account relevant evidence and reached a conclusion which it was open to him to reach, applying the correct legal test.

12. There was also discussion of the relevance of the existence of the appellant's ties with Cameroon, perhaps as a result of paragraph 8 of the grounds, and the consequence of the change in the rule brought about by the amendment on 28 July 2014. I was not much assisted by this debate. The new rule was applied by the judge, applying the relevant evidence.

13. The judge's decision does not disclose any material error of law and shall stand.

NOTICE OF DECISION

The Judge of the First-tier Tribunal did not make a material error on a point of law and his decision allowing the appeal under the Immigration Rules shall stand.

No anonymity direction has been made.

Signed **Date 5 November 2014**

Neil Froom, sitting as a Deputy Judge of the Upper Tribunal