Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/52611/2013

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 30 January 2015	**On 5 February 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE LINDSLEY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

MISS CHANNEH JOBE
(ANONYMITY DIRECTION NOT MADE)

Respondent

Representation:

For the Appellant: Mr Shilliday, Home Office Presenting Officer
For the Respondent: Mrs H Price, Counsel instructed by Addison & Khan Solicitors

DECISION AND REASONS

Introduction

1. Although this is an appeal by the Secretary of State I will refer to the parties as they were before the First-tier Tribunal.

2. The appellant is a citizen of Gambia born on 24th May 1986. She first came to the UK on 24th July 2000. She applied for leave to remain based on Article 8 ECHR/ long residence on 22nd November 2012. Her application was refused on 26th November 2013. She appealed on 22nd November

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2013. Her appeal was allowed under paragraph 276ADE of the Immigration Rules in a determination of Judge of the First-tier Tribunal Griffith promulgated on 4th September 2014.

3. On 20th October 2014 Judge of the First-tier Tribunal PJM Hollingworth found that there was an arguable error of law because it was arguable that the wrong definition of "ties" had been applied by Judge Griffith.

4. The matter came before me to determine whether the First-tier Tribunal had erred in law.

Submissions

5. Mr Shilliday relied upon the grounds of appeal and in summary argued as follows. It was not open to the Tribunal to find the appellant had no ties with Gambia when she had spent her formative years (until the age of 14 years) in Gambia. These years are very important, as is clear from the case law on the best interests of children. Further the European Court of Human Rights had found that it was a tie if a young appellant had a familial tie in a country which could be pursued and strengthened if he or she so chose, see Balogun v UK [2012] ECHR 614. The assessment of the ties in the determination was very limited at paragraphs 22 -23, and looked only at family ties.

6. The appellant's ties to the UK were not relevant. The question was whether she had ties to Gambia. The fact the appellant had come to the UK as a 14 year old created a presumption that she would have such ties. This position was in line with the seven year length of residence applied in assessing the best interests of children.

7. This error of law was material as in fact the appellant had spent all her youth in Gambia and so would be familiar with the culture of the place and was an adult who could adapt to life in that country using her qualifications and experience acquired in the UK.

8. Mr Shilliday said he would not comment on the additional statement and unreported case provided by Mrs Price as she had not submitted these in accordance with the relevant Procedure Rules.

9. Mrs Price submitted that the grounds of appeal were simply a disagreement with the findings of Judge Griffith. The respondent relied upon a very small extract from Balogun which was a case involving a criminal deportation. In the grounds of appeal it alleged that that appellant should not be seen as a credible witness as she had used deception, but Judge Griffith had found her to be a credible witness at paragraph 23 of the determination and not agreed with the allegation that she had used deception. Judge Griffith was fully aware the appellant was an adult. She had taken into account that all of the appellant's ties were to the UK including her relationship with a boyfriend and her academic record. The case law on the best interests of child was clear that the ties that an older child forms are more significant to their private life, making their removal

less likely to be proportionate. This appellant had spent half her life in the UK including four years as a child.

Conclusions – Error of Law

10. The challenge in this case is that it is said by the Secretary of State that Judge Griffith did not correctly apply the test at paragraph 276ADE (vi) of the Immigration Rules and assess whether the appellant had no “ties (including social, cultural or family)”with Gambia, the country to which she would have to go if removed.

11. The Secretary of State does not point to any error of law in Judge Griffith’s finding at paragraph 23 of the determination that the appellant is a credible witness.

12. The meaning of the word “ties” is defined in Ogundimu (Articlce 8 – new Rules) Nigeria [2013] UKUT 00060 as meaning more than “merely remote or abstract links to the country of proposed deportation or removal”; it is to involve a “rounded assessment of all of the relevant circumstances”. Ties involved a “continued connection to life in that country”: it was not sufficient that the appellant was simply a national of the country. The fact that another relative had ties would not import these ties in the appellant.

13. Whilst Judge Griffith’s did not cite Ogundimu I find that she assessed ties in accordance with this test, looking at the appellant’s connection with life in Gambia and finding it to be non-existent at paragraph 22 to 23 of her determination. She finds she had no one to turn to in that country and that is why she left in 2000. The evidence of the appellant, which she finds credible, sets out that all of her relatives are now in the UK and that she is very close to them, and that she would not be able to find employment in Gambia because of her lack of family to assist her (see paragraph 14 of the determination). She had not returned to Gambia or communicated with anyone there since the year 2000 (see paragraph 8 of the determination). She had integrated totally into UK society because of her having severed all ties with Gambia (see paragraph 13).

14. I do not find the fact that the appellant lived in Gambia until the age of 14 years or for a period of more than seven years as a child creates a presumption of ties: the test with respect to “ties” is clearly an individual fact sensitive analysis and there can be no such presumption.

15. Judge Griffith’s determination discloses no error of law.

Decision

1. The First-tier Tribunal did not err in law.

2. The determination of the First-tier Tribunal allowing the appeal is upheld.

No anonymity direction is made.

Signed Date 3rd February 2015

Judge Lindsley
Deputy Upper Tribunal Judge