



IAC-FH-CK-V1

**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/18773/2019**

THE IMMIGRATION ACTS

**Heard at Field House
On the 04 February 2022
Extempore decision**

**Decision & Reasons Promulgated
On the 09 March 2022**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MR AHMED ALI

Respondent

Representation:

For the Appellant: Mr M Diwnycz, Senior Home Office Presenting Officer
For the Respondent: Ms A Harvey, Counsel instructed by J M Wilson

DECISION AND REASONS

1. I will give only brief reasons because Mr Diwnycz conceded the appeal at the hearing.
2. This is an appeal brought by the Secretary of State against a decision of Judge of the First-tier Tribunal Landes (“the judge”) promulgated on 30 June 2021. The issue before the judge was whether it was contrary to article 8 ECHR for the Secretary of State to refuse to revoke the deportation order against the respondent. In a detailed and comprehensive decision, the judge concluded that it was and on that basis allowed the

appeal.

3. The central argument made in the grounds of appeal is that the judge's finding that the respondent had a genuine and subsisting parental relationship with his children was inconsistent with *AO (Nigeria)* [2019] EWCA Civ 661 because in that case it was held that a genuine and subsisting parental relationship requires some element of direct care for the child by the relevant person. Mr Diwnycz acknowledged at the hearing that this submission in the grounds of appeal was misconceived. He was right to make this concession and to abandon the appeal.
4. *AO* makes unambiguously clear that there does not necessarily need to be an element of direct care and that what is required is a fact specific evaluation of all relevant circumstances. It is therefore surprising, to say the least, that the Secretary of State's grounds of appeal assert that it was found in *AO* that there must be an element of direct care. To put it bluntly, this is precisely the opposite of what was found in *AO*.
5. The task of the judge, in line with the finding in *AO*, was to undertake a fact specific assessment, having regard to all of the evidence, about the relationship between the respondent and his children. This is precisely what the judge did. The grounds of appeal do not identify an error of law in the decision and the decision stands.

Notice of Decision

6. The appeal is dismissed.

Signed

D. Sheridan

Upper Tribunal Judge Sheridan

Dated: 11 February 2022