



Neutral Citation Number: [2020] EWHC 3516 (Admin)

Case No: CO-1970-2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21/12/2020

Before :

CLIVE SHELDON QC (SITTING AS A DEPUTY JUDGE OF THE HIGH COURT)

Between :

R (on the application of

GRACE OMOLARA IMOLEAYO ORIRE-BANJO)

Claimant

- and -

**THE SECRETARY OF STATE FOR THE HOME
DEPARTMENT**

Defendant

Julian Norman (instructed by **O A Solicitors**) for the **Claimant**
William Hansen (instructed by **Government Legal Department**) for the Secretary of State

Hearing date: December 1st, 2020

Approved Judgment

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 10:30am on 21 December 2020.

Clive Sheldon QC (sitting as a Deputy Judge):

1. This is a case concerning the rightful owner of an identity. Two women have applied for, and obtained, a British passport on the basis that they were born in England on June 10th, 1963 as Safiyatu Anke, the child of Nigerian national parents: Abdulkadir Orire and Adijatu Orire. Both of these women are using the same root birth certificate. One of these women, Grace Omolara Imoleayo Orire-Banjo is the Claimant in this judicial review application. She has been living in England since 1989. The other woman, Sefiya Tokunbo Abdulkadir, lives in Nigeria.

2. On September 4th, 2017, the Secretary of State for the Home Department revoked the Claimant's passport. It was explained that

“the passport issued on February 24th, 2011 should not have been issued. . . . The decision to issue, withdraw, or refuse a British passport is at the discretion of the Secretary of State for the Home Department (the Home Secretary). Passports are issued when the Home Secretary is satisfied as to:

- i. the identity of an applicant;
- ii. the British nationality of applicants, in accordance with relevant nationality legislation; and
- iii. there being no other reasons for refusing a passport.

As the above criteria have, based on the evidence received, not been met, it is deemed that you have no entitlement to a UK passport.”

3. On March 17th, 2020, the Secretary of State refused to issue the Claimant with a fresh passport. The reason given was that

“Following previous checks conducted by Her Majesty's Passport Office, you were found not to be the true holder of this identity. On 14 November 2016 you attended an interview under caution at the London Passport Office. The interview did not alleviate the concerns held by HM Passport Office. . . . Your application for a British Passport has been refused. You do not have a claim to British Citizenship.”

4. The Claimant seeks to challenge these decisions by this application for judicial review. She seeks a declaration that the decision to revoke her passport and the failure to issue a new one was unlawful. She also seeks a declaration that she is a British citizen.

Legal Framework

5. The grant or withdrawal of a British passport is an exercise of the Royal Prerogative, in the discretion of the Secretary of State: see *R v. Secretary of State for Foreign and Commonwealth Affairs, ex parte Everett* [1989] QB 811 at 817C-D (per O'Connor LJ).

6. The most recent version of the policy applied by the Secretary of State with respect to the grant or withdrawal of a passport was set out in a Written Ministerial Statement made on April 25th, 2013. This provides that:

“There is no entitlement to a passport and no statutory right to have access to a passport. The decision to issue, withdraw, or refuse a British passport is at the discretion of the Secretary of State for the Home Department (the Home Secretary) under the Royal Prerogative.

. . .

A decision to refuse or withdraw a passport must be necessary and proportionate. . .

. . .

Operational responsibility for the application of the criteria for issuance or refusal is a matter for the . . . HM Passport Office . . . acting on behalf of the Home Secretary. The criteria under which . . . HM Passport Office . . . can issue, withdraw or refuse a passport is set out below.

Passports are issued when the Home Secretary is satisfied as to:

- i. the identity of an applicant;
- ii. the British nationality of applicants, in accordance with relevant nationality legislation;
- iii. there being no other reasons . . . for refusing a passport. . .”

7. The decision to grant or refuse a passport is open to challenge on conventional public law grounds: see e.g. *Liaquat Ali v. Secretary of State for the Home Department* [2012] EWHC 3379 (Admin). In *Liaquat Ali*, Burnett J (as he then was) stated that:

22. . . . A challenge to a decision of the Secretary of State refusing to issue a passport is not a precedent fact case. It does not engage sections 3(8) and 3(9) of the 1971 Act because it does not raise any question under that act.

23. The task of the court is the familiar one of evaluating whether the decision was one open to the Secretary of State on the information available to her, or otherwise considering conventional public law grounds of challenge. That is not to say that the fact that an individual has previously been issued with a British passport is not important in evaluating whether the decision reached was a rational one, in public law terms. It is unhelpful in this context to speak in terms of burdens of proof. The reality is that, having once been satisfied that an individual was entitled to a passport, the Secretary of State would need to advance cogent reasons that stood up to scrutiny why, on a later application, she was taking a different view. The refusal to renew the passport of someone who has enjoyed the benefits of a British passport for a decade is a serious step with serious consequences. No less would be required to satisfy a rationality test.

8. If the Claimant was only complaining about the revocation of her passport, and the refusal to issue her with a fresh passport, there would not be any *precedent fact* for this Court to determine. The claim would be decided in accordance with the approach outlined by Burnett J. in *Liaquat Ali*. However, in this case, the Claimant is also seeking a declaration from this Court that she is a British citizen. The parties agree that this a *precedent fact* for the Court to determine. That is correct. The Court has to decide whether the Claimant is the person who was born in London on June 10th, 1963 as Safiyatu Anke Orire. If so, she would be entitled to British citizenship on account of her birth in the United Kingdom: see section 4 of the British Nationality Act 1948 which provided that “Subject to the provisions of this section, every person born within the United Kingdom and Colonies after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by birth”.
9. The parties do not agree as to where the burden of proof lies. Ms. Norman, on behalf of the Claimant, contends that this a case involving an allegation of fraud or deception, and so the burden of proof rests on the Secretary of State. Ms. Norman says that once the Claimant has shown that she resided in the United Kingdom with a valid passport, the burden of proving that she had obtained that passport by deception is on the Secretary of State. The Secretary of State should, therefore, prove that the Claimant is not who she says she is. In support of that proposition, Ms. Norman referred the Court to a number of authorities including: *R(Obi) v. Secretary of State for the Home Department* [1997] 1 WLR 1498; *R (Jayram Sinha) v Secretary of State for the Home Department* [2013] EWHC 711 (Admin); and *Muhandiramge v. Secretary of State for the Home Department* [2015] UKUT 675 (IAC).
10. In *Obi*, the question for the Court was whether the claimant was an “illegal entrant”. Sedley J. (as he then was) held that as the claimant had a United Kingdom passport it was for the Secretary of State to satisfy the Court that the applicant was an illegal entrant. Sedley J. referred to section 3(8) of the Immigration Act 1971 which provides that

When any question arises under this Act whether or not a person is a British citizen, or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.

This means that the burden of proof lies on the applicant when any question arises under the Immigration Act 1971 as to whether or not he is a British citizen. However, section 3(9) of the Immigration Act 1971 provides that

“A person seeking to enter the United Kingdom and claiming to have the right of abode there shall prove that he has that right by means of . . . (a) a United Kingdom passport describing him as a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom”.

Sedley J. held that once the applicant had produced the passport, no further burden rests on him.

“He remains open to all the sanctions of the law if it can be proved that he secured the issue of the passport by fraud. But, until this point is reached, the production of a genuine passport which describes as a British citizen a person who, in whatever name, is the person seeking to enter discharges the burden of proof of British citizenship established by subsection (8) by a means specified as sufficient in subsection (9)”.

That was, according to Sedley J., the straightforward meaning and effect of the relevant statutory provisions.

11. In Sedley J’s judgment, that approach was also consistent with principle. At p1502G-H, Sedley J. explained that:

“For the principle upon which many of our liberties are historically founded, section 3(8) of the Act of 1971 substitutes a rule that anyone whose citizenship, and hence whose right to be at liberty in this country, is questioned must prove it. . . . Although . . . the question, if it reaches the court, must be one of precedent fact, the fundamental requirement that it is then for the state to prove its entitlement to take away a person’s liberty is reversed by section 3(8) in this class of case.

Section 3(9) now makes straightforward provision for the means of proof. . . . [If the applicant] had done what section 3(9) requires, then there can be no doubt, on first principles, that it is for the Secretary of State to satisfy the court that the applicant is nevertheless an illegal entrant. Anything less would allow the immediate suspension of habeas corpus by section 3(8) to persist past the point at which section 3(9) is complied with.”

12. Ms. Norman argued that further support for the proposition that the burden of proof rested on the Secretary of State could be found in the judgment of Eder J. in *R (Jayram Sinha) v Secretary of State for the Home Department* [2013] EWHC 711 (Admin). That case involved a challenge to the refusal to issue a passport and the relief sought included “A declaration that the Claimant is a British citizen”. In that case, the Secretary of State accepted that the question for the Court was one of “precedent fact”, and both parties agreed that the claimant had the legal burden of establishing that he was who he claimed to be. However, it was argued that the evidential burden rested on the Secretary of State. It was not necessary for the Court to decide the matter as Eder J. was satisfied on the evidence that the applicant was who he claimed to be and was therefore a British citizen and entitled to a new passport. During the course of his judgment, however, Eder J. acknowledged that there was “much force” in the submission that, in light of the fact that four passports had been produced by the claimant, the evidential burden of proof on the claimant had been satisfied, and that the burden of proof then shifted to the defendant to prove otherwise.
13. *Muhandiramge* was a case involving a refusal of an application for leave to remain in the United Kingdom in circumstances where the applicant had failed to disclose a conviction. The question that needed to be determined was whether the applicant had a reasonable excuse for non-disclosure of the conviction. McCloskey J, sitting in the

Upper Tribunal (Immigration and Asylum Chamber), held that the burden rested on the applicant to prove that he had a reasonable excuse for non-disclosure. During the course of his judgment, however, McCloskey J. explained that in cases of alleged deceit, the legal rules were well settled: the burden of proof was on the Secretary of State to establish deception, referring to the House of Lords decision in *R v. Secretary of State for the Home Department, ex parte Khawaja* [1984] AC 74.

14. Mr. Hansen, on behalf of the Secretary of State, submits that the legal burden rests on the Claimant throughout. He accepted that, as an evidential point, where the Claimant had been granted several passports in the past, the Court would need to be satisfied by cogent evidence that the Claimant was not the person she claimed to be. Ultimately, however, if there was such cogent evidence (the language used by Burnett J. in *Liaquat Ali*), it would be for the Claimant to prove that she was who she claimed to be. In other words, the evidential burden remained with the Claimant.
15. Mr. Hansen also contended that it was not for the Secretary of State to prove fraud or deception to justify revocation or the refusal to renew the Claimant's passport. He said that this was not a case about deprivation of citizenship on the grounds of fraud: c.f. section 40(3(a)) of the British Nationality Act 1981, which provides that "The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of fraud".
16. Reference was also made by Mr. Hansen to the cases of *R (Olayeni) v. Secretary of State for the Home Department* [2014] EWHC 2137 (Admin); *R (Easy) v. Secretary of State for the Home Department* [2015] EWHC 3344 (Admin); and *R (Harding) v. Secretary of State for the Home Department* [2017] EWHC 358 (Admin). In none of these cases, however, was the Court required to determine whether or not the claimant was a citizen, and so I did not find them to be of any real assistance in my consideration of the proper approach.
17. Indeed, in my judgment, none of the authorities referred to by either party are determinative of where the burden of proof lies with respect to the application by the Claimant for a declaration that she is a United Kingdom citizen. Either the matter was not decided by the Court (*Sinha*), or the circumstances in which the question came before the Court were different to the present case. In *Obi*, the question for the Court was whether the Claimant was an "illegal entrant" under the Immigration Act 1971, and so sections 3(8) and 3(9) applied. That is not what I have to consider in the present case.
18. It is necessary, therefore, for me to consider the matter by going back to first principles. In my judgment, the proper analysis is that the legal burden rests on the Claimant. First, it is the Claimant who is asking the Court for a declaration that she is a United Kingdom citizen. Ordinarily, it would be for the person seeking that relief to prove her case. Second, that is the language of section 3(8) of the Immigration Act 1971. Although strictly speaking I am not being asked to determine the matter as a "question" arising under that Act, for practical purposes the effect of my decision will impact on the ability of the Claimant "to live in, and to come and go into and from, the United Kingdom without let or hindrance": per section 1(1) of the Immigration Act 1971.

19. This is not the end of the matter, however, as the evidential burden need not be the same as the legal burden. In the instant case, I consider that the evidential burden should rest with the Secretary of State to prove that the Claimant is not who she says she is. Not only has the Claimant been issued with a passport on three occasions which raises a strong presumption that she is who she says she is, but the Secretary of State's decision to revoke the Claimant's passport, and to refuse to issue her with a fresh one, was on the basis that the Secretary of State has not accepted the Claimant's claim to her identity. This is tantamount to the Secretary of State saying that the Claimant has obtained her passports by fraud or deception. Where fraud or deception is alleged, it should be for the Secretary of State to prove it (consistent with the approach adopted by the House of Lords in *Khawaja*).

The Hearing

20. Permission to apply for judicial review was granted by Holman J. on July 22nd, 2020. Holman J. also directed the Claimant to appear personally so as to be available to give oral evidence if required by either side or the Court. The Claimant attended at Court on November 30th, 2020 and gave evidence. The Claimant approved the contents of her witness statement, which she had signed on November 9th, 2020. She then answered a small number of supplemental questions in examination-in-chief from her counsel, Ms. Norman. The Claimant was then cross-examined by Mr. Hansen, on behalf of the Secretary of State. The Claimant then answered some further questions in re-examination by Ms. Norman and answered a small number of questions from the Court.

The Evidence

21. The agreed bundle of documents for the hearing contained a photocopy of a certified copy of the birth certificate of Safiyatu Anke Orire. This recorded her birth at the Whittington Hospital in London on June 10th, 1963, to her father, Abdulkadir Orire, described as a "Student of Languages", and her mother, A. Orire. The mother's full name is given elsewhere as Adijatu Orire.
22. The parents and the daughter returned to Nigeria in 1964. In her witness statement, the Claimant said that she was that daughter, and that she grew up in Ilorin, which I understand is the capital of the State of Kwara, in Western Nigeria. The Claimant said that her father was a teacher, and later became a lawyer. Her mother was a full-time housewife. The Claimant said that her father lived elsewhere for several years and married another woman which he initially kept secret from Adijatu Orire. The Claimant said that her father subsequently brought his second wife to live in the same household as the Claimant and her mother. He then had two further wives.
23. The Claimant said that she has six immediate siblings, including Sefiya Tokunbo Abdulkadir. She said that she has thirteen half-siblings. The Claimant said that in 1975 her father was promoted by General Murtula Mohammed, the Head of State of Nigeria, to the position of Grand Khadi of Kwara State (this is a judicial position on a Sharia Court).

24. The Claimant said that she came to the United Kingdom in 1989 with one child (who had been born in Nigeria). She said that she obtained a British passport and had produced a birth certificate when applying for her passport. She said that this was the birth certificate that was given to her by her mother.
25. The Claimant said that she was involved in a fire accident at her church and received medical treatment. The Claimant said that in 1990 she married Morade Adedoyin Banjo, and that they had three children who were all born in the United Kingdom.
26. The Claimant said that she converted to Christianity and added the name Grace. In her witness statement, she said this was “because it was by Grace that I was saved”. She said that her husband gave her the name Omolara, which was one of his mother’s names. She explained that she changed her name by Deed Poll to Grace Omolara Imoleayo Orire-Banjo. The Claimant said that her conversion to Christianity “angered my parents and they disowned me completely as they are fanatical Muslims. Prior to this time, my sister Tokunbo always sent letter to me and referred to me as her sister.” She said that during the time she lived with her parents, there was nobody living with them by the name of Omolara Banjo, and she was not related to such a person.
27. The Claimant said that she attended an interview at HM Passport Office (“HMPO”) in connection with an application being made by her son for a British passport and provided a plethora of evidence to show that she is who she claimed to be. This included her mother’s passport. This was consistent with evidence provided in a witness statement submitted by Michael Ormiston, an Executive Officer at the HMPO, who said that the Claimant attended for interview on July 11th, 1994 with a photocopy of her mother’s Nigerian passport. Mr. Ormiston also said that the Claimant had produced a photograph of an African couple with a child which she said was her.
28. The Claimant said that in 2001 she obtained a British passport in the name of Grace Omolara Imoleayo Orire-Banjo. According to Mr. Ormiston, the Claimant attended an interview on or around May 16th, 2001, and answered questions regarding her identity and, according to Mr. Ormiston, she provided further documents including a family photograph, her mother’s passport, as well as letters and copies recording her education. In 2011, the Claimant said that she obtained a fresh passport.
29. In the meantime, a file note prepared on July 3rd, 2004, and signed by a Passport Interviewing Officer, stated that on June 11th, 2004, “Sefiya Tokunbo Abdulkadir (Nee Orire)” attended for an interview in connection with her application for a British passport. The file note gives her date of birth as June 10th, 1963, and her place of birth as London. The file note states that:

The applicant attended for an interview on 11/6/04 accompanied by her father, her mother and her sister born in Nigeria in 1969. The interview was recommended due to very poor time of birth documents, the lack of photographs, poor UK documents for the parents and no evidence of travel for the mother or the applicant.

The applicant had only submitted a certified copy of the long birth certificate. The applicant and the parents all stated that the original had been lost or misplaced with the mother's Nigerian passport some time during moving from one house to another. At the interview the applicant did submit the following:

- a) Photographs – mainly UK photographs, but a few that were taken in Nigeria;
- b) Passenger list for the MV Apapa leaving Liverpool 28th August 1964;
- c) $\frac{3}{4}$ of the receipt for the amount paid for the voyage of the family members;
- d) Mother's personal ante-natal record card;
- e) Mother's ante-natal and post-natal clinic card;
- f) Applicant's baby weight card; and
- g) Mother's appointment card.

I recommend issue on this applicant, however prior to the presentation of the above documents at the interview, this application was very weak and probably would have been refused.

The parents were married in Nigeria by traditional wedding shortly before the father's departure for the UK. The father first travelled to the UK in 1959 to study. He completed his BA in Arabic. The mother first travelled to the UK in 1962 to join her husband.

The applicant returned to Nigeria in August 1964 at 14 months old. She returned with her mother and father and her name was endorsed on the mother's Nigerian passport. Unfortunately, this passport is not available as evidence of their travel.

The father was a teacher at first, teaching at Barewa College in Zaria. He later became a Judge although he has retired from that position now and is currently Secretary to a "Non-Governmental Organisation". The mother was a housewife during the times she was in the UK and has been a full-time housewife since her return to Nigeria.

The applicant lived and grew up with her parents and siblings in Ilorin. Although there were times when the father was not living in the same house, he was still within close proximity. The father owns an estate/compound containing three houses. The applicant's family live in one house, whilst the father's second wife and her family live in another and the father's third wife and her family live in the third house. The father apparently spends time with each family.

The mother does not have many memories of the UK, although the father has reasonable memories. The applicant was too young to have any memories of the UK.

I can identify the father to his Nigerian passport photographs, to photographs taken in the UK and a few photographs taken in Nigeria. I can identify the mother to her Pilgrim passport photograph and to one photograph taken at the applicant's wedding in Nigeria. I can identify the applicant to her staff ID card, to

photographs taken in the UK and to photographs taken in Nigeria. I can identify the sister to her staff ID card and one photograph taken of her as a toddler in Nigeria.

The details given by the applicant and parents regarding the family history did not all agree, as stated above the discrepancies are identified at the end of the interview summary.

Based on the above information I am satisfied with the identity of this applicant and her claim to nationality.”

30. The Interview Summary Statement contains the names of the Applicant (Sefiya Tokunbo Abdulkadir; maiden name Orire), and the Mother and Father. The parents confirmed that Sefiya was “A Year and 2 Months” (mother’s evidence), “Over 1 Year” (father’s evidence), when she left the United Kingdom. Each of them confirmed that the father had 3 wives. They each confirmed that no other siblings had obtained British passports. Sefiya and her mother said that she did not have any other brothers or sisters who were now deceased; the father said, however, that they had a son who was born and died after 3 months, between the births of Sefiya and Musa.
31. With respect to the travel documents on which Sefiya returned to Nigeria, the mother said, “In my own passport but I don’t see that again and her birth certificate/I didn’t see them again”; the father said, “Included on the mother’s passport”. They all agreed that this was Sefiya’s first passport application. When asked what had happened to the passport which the mother had used to travel to and from the United Kingdom, Sefiya said “The one my Mommy used to go to the UK is missing when we moved.” The mother agreed with this. The father said, “She said it is lost/She doesn’t know how it is missing”. As for where her original birth certificate was, Sefiya said “It got lost in about 1996 when we moved from one house to another in Ilorin”. The mother agreed. The father said, “The same thing happened/she said it got lost/she put it in the house and somehow it got missing.”
32. In December 2014, Sefiya Tokunbo Abdulkadir applied for a renewal of her British passport. She was interviewed in Lagos. The notes associated with this interview state that she submitted a non-contemporaneous copy of her birth certificate (that is, a recently issued UK birth certificate, dated October 8th, 2002), as well as a photocopy of a contemporaneous birth certificate (which I take to be a photocopy of the original birth certificate). She also submitted the Nigerian passports of her mother (Adijatu Orire) and her father (Abdulkadir Orire). She also produced original copies of her mother’s antenatal/postnatal documents, her immunisation card, and her child’s health card. She also produced some original certificates of courses attended by her mother in London (at the Red Cross Society and YWCA), and certificates from the University of London, and the School of Oriental and African Studies, for courses attended in London by her father. She produced photographs of her parents in the United Kingdom (the investigating officer noted “Can ID parents to their current Nigerian passport”; and of the applicant with her parents in the UK (the investigating officer noted “Can ID parents to their current passport”).
33. A Counter Fraud Support Assistant, with the last name Dagunduro (the first name is redacted in the copy provided to the Court; I shall refer to this person as “Assistant Dagunduro”) produced a typed set of notes (dated February 23rd 2015) which contained a description of Sefiya Tokunbo Abdulkadir’s interview, and then some

information derived from some additional investigation that Assistant Dagunduro had carried out. This reads as follows:

“Applicant was interviewed in Lagos. She was able to submit substantial document to support this application. During the interview, I showed the applicant the picture of the so-called GRACE OMOLARA IMOLEAYO ORIRE-BANJO formally [sic] known as ORIRE SAFIYAT ANKE and my applicant identified her as ‘LARA’. My applicant claimed that Omolara Imoleayo Orire-Banjo was known to her many years ago as she used to pass night in the family house of the Abdulkadir (my applicant’s family). She claimed the lady was introduced to their family through her maternal uncle. She was a student who schooled somewhere around the locality where my applicant’s parents lived at that time.

All documents submitted by my applicant were originals and I can place applicant and parents together in the UK up till they returned to Nigeria and my applicant growing up. Although my applicant was a baby, she was able to submit enough documents for her parents back in the UK. Parents UK school certificates were submitted (all originals) and photos of parents in the UK.

My applicant’s maternal uncle was contacted, and he gave details of how he met and knew OMOLARA. He claimed that he introduced GRACE OMOLARA to my applicant’s parents when she was in school. He claimed that he knew GRACE OMOLARA when he started attending the church pioneered by OMOLARA’s father as he is now dead and was buried in the premises of the church he pioneered.

I made a verification trip to the said church in Ibadan. This location was apparently the home of OMOLARA when she was growing up. I was able to confirm that her father is dead, and I saw the tomb where he was buried. Also, beside his tomb is the tomb of OMOLARA’s grandmother named ‘Esther Morenike Amoke AKANDE’. Applicant claimed her father met OMOLARA some years ago and informed him that she had lost her father and that she would be sending the burial program to my applicant’s father.

From my findings, I discovered that GRACE OMOLARA’s maiden name is actually ‘AKANDE’ and I was told she is the oldest of her siblings and I was able to speak with the younger brother named ‘Pastor [redacted]’. She was also named in the burial program for her father in 1999. Speaking with the said brother over the phone, he initially confirmed that GRACE OMOLARA is his older sibling, she lives in the UK and immediately he was asked if he knew her also to be GRACE OMOLARA ORIRE-BANJO, he said yes and told me he was in the public bus and that he would call back. After a while, I called

back and changed the whole story now stating that GRACE OMOLARA ORIRE-BANJO is not his full sibling, he claimed that they found out years ago that she was a product of an affair between [redacted] and their mother Mrs AKANDE. I believe this information was an afterthought.

My applicant has come from an Islamic background in which the father who is still alive and well is a retired chief judge of the Sharia court. My applicant has not at any time been converted to a Christian and therefore her name still remains 'SEFIYA TOKUNBO ABDULKADIR' whilst the impostor in the UK has her name as 'GRACE SEFIYA ANKE ORIRE'. My applicant still remains a Muslim and hasn't changed her name from SEFIYA TOKUNBO ABDULKADIR. She has submitted documents to back it up.

Applicant also submitted her school documents any many other documents to prove her identity. She also submitted the ship's manifest in which applicant and parents travelled with when returning to Nigeria after applicant's birth.

The person in the UK is the same as on DWP and DVLA but my applicant is the rightful owner of ID. School records as held by applicant in Nigeria shows progression of her education right from birth till date. Applicant submitted the school documents as far back as 1980 till date in which her name has been consistent since she got to Nigeria from time of birth. Although applicant's name in her birth certificate reads SAFIYAT ANKE, on returning to Nigeria after birth, applicant's parents renamed her to be SEFIYA TOKUNBO (this means a child born in the abroad and brought back to Nigeria/home). And applicant has since been using the same name.

...

Grace Omolara sent some of her family photos to my applicant's family early 90's, these photos will be scanned and attached to the recommendation. She also informed my applicant's family she had a fire accident and had scars all over her at that said time. Grace Omolara's son . . . can be identified in one of the photos.

I do not have concern that my applicant is the true holder of this identify and would therefore recommend that the applicant SEFIYA TOKUNBO ABDULKADIR be cleared for renewal of her British passport and place GRACE OMOLARA IMOLEAYO ORIRE-BANJO is placed on stop files and be called to attend an interview. She should be asked to produce documents from childhood till date. I can categorically say that GRACE OMOLARA IMOLEAYO ORIRE-BANJO has taken up my

applicant (SEFIYA TOKUNBO ABDULKADIR) identity in the UK.

I therefore recommend issuance of British passport to SEFIYA TOKUNBO ABDULKADIR.”

34. The burial programme for Senior Apostle Olapade Akande, who was said to have died on April 2nd, 1999, was produced to the Court. This referred to various services on April 22nd and 23rd 1999. The names: “Mrs Omolara Banjo”, and “Mr Adewale Akande” were typed on the bottom left hand-side of the invitation. The initials ‘R.S.V.P’ were hand-written above their names.
35. In 2015, the Claimant’s son applied for a passport. A “Case Running Sheet” in respect of the application by her son for his passport contains much detail about the Claimant and her interaction with HMPO. On December 8th, 2015, it is recorded that information was received from the son. There was a telephone conversation with him, and it was explained that his mother’s documents were required as his claim to British citizenship ran through her. It was noted that the applicant “explained that Mother could not provide the docs req’d as her parents are deceased, her siblings are ‘all over’ and it is too much of a stress for her.”
36. Against the date December 8th 2015, it is noted that a covering letter had been received from the Claimant stating that she had provided the passport office with her mother’s passport which included her name in 1994; that she was burgled in 1998 and a lot of her personal effects, including passports and documents, had been stolen; and that she could supply photographs of her engagement which shows both of her parents-in-laws. She provided a photocopy of her mother’s “OB ppt”, as well as a selection of photographs which appear to show the Claimant with her parents at a marriage or engagement. It was noted that “One of the photos was also supplied by our [overseas] applicant” (a reference to Sefiya Tokunbo Abdulkadir).
37. Against the date December 18th, 2015, it is noted that “ABDULKADIR [presumably, Sefiya Tokunbo] recently interviewed overseas and ID established. She maintained that ORIRE-BANJO was known to her . . . however, in my opinion she did not disclose the full extent of their relationship as ORIRE-BANJO has now supplied photographs of family gatherings where she can be seen with ABDULKADIR’s parents. ORIRE-BANJO was seen and interviewed . . . in 2001. She produced family photos, mother’s ppt, letters and copies of educational details which she now claims to have had stolen in 1998! (Were these ‘borrowed’ from genuine holder & returned??).”
38. On October 14th, 2016, the Claimant was interviewed by HMPO. A transcript of a recording of the interview was provided. The transcript records on the second page that the Claimant was cautioned. It records the Claimant saying that she had lived in Nigeria, having left London in 1964. She gave her parents’ names and said that they lived with her father’s other three wives. She gave the names of her full siblings. She explained that in 1994, when she was interviewed, she produced her mother’s passport, which had her name in, as well as a photograph of her with her father in Trafalgar Square. She gave details of her father’s employment in Nigeria, including as a Sharia judge. She was asked the reason for changing her name. She said:

“My father was a Muslim, but my uncle . . . my mum’s big brother. So, he was a Christian, so right from there I always add Grace to my name . . . Right from my youth I liked the Christian way. . . So, I like Grace. So, I change, I add Grace to my name. So, but my husband, because he is a Christian.... Do when I first of all got together with him, my dad said he is going to disown me. . . So, I add Grace to my name right from day one. Is Grace Safiyat. Then in 2001 I decided that I am going to do, because people said instead of adding Grace Safiyat . . . Muslim and Christian name, combine it together. So, we decided to come up with a name. So, I decided that I am going to be Grace Omolara. When I got married my husband’s people gave me that . . . name. So, I started wearing Grace Omolara Imoleayo ORIRE-BANJO, so I did it by Deed Poll.”

39. During the course of the interview, the Claimant produced a laminated birth certificate which appeared to be the original. She was shown a photograph which she said was taken in 1992 when her “immediate sister was doing a wedding, when I went to Nigeria. So this is my mother.” She identified her mother in another photograph as well. She identified her mother in a photograph with her uncle’s wife and “the immediate big brother of my mum”. She identified her father in a photograph and said that the others were his friends, saying of one person that “This is one of my daddy’s judiciary something. I forgot his name. . . This is, I think this is just his (unclear – Justice Begori?), I don’t remember”. In another photograph, she identified her father, her mother-in-law, herself, her mother, and her father-in-law during what she said was her engagement. She said that that photograph was taken in September 1996: and that “those people who came to ask for my hand in marriage”.
40. The transcript records that the Claimant was shown a photograph of a person who she identified as being her sister, “Sefinat” [presumably Sefiyat]. The Claimant said that her sister was a lawyer, that she was born in Nigeria, and gave her date of birth. (This date is not recorded in the transcript, but in a summary of the interview transcript, this is stated to be September 10th, 1965). The Claimant said that she had not spoken to her sister since 1999. She said that she had had an argument with her father: “when my husband left me in . . . 1998 and he told me and my husband to come home . . . I got married to a Christian and finally in 1996 we did the engagement, he finally agreed then he asks us to come home so that we can sort it out. My husband said he’s not going home.”
41. According to the transcript, the Claimant was asked about some other photographs, which she identified as being of her after her fire accident. She asked the interviewer where they got the pictures from. (These were presumably photographs which had been provided by Sefiya Tokunbo Abdulkadir). The Claimant was then informed that a person had applied for a British passport in Nigeria and had produced a UK birth certificate in the name of Safiyatu Anke Orire. The Claimant was reported to have said “That’s me!”
42. The Claimant was informed by the investigators from HMPO that the applicant for the passport in Nigeria had stated that the Claimant was in fact “Lara Banjo,

previously known as Omolara Akande, that you lived in her family home in the 1980s whilst you were a student. She stated that your father was the late Olapade Akande, founder of a Christian church in Nigeria, and you have a younger brother in Ibadan who is a pastor”. The Claimant was asked to explain. The transcript records the Claimant’s response as “laughs”. She said “I don’t know her because my uncle . . . my mum’s big brother, was the pastor in that church. When my dad sent my mum away . . . we lived there with my mum. . . it’s because of my uncle I changed to Christian ... It was there I got the ‘Grace’ from. . . it was there that I decided to be ‘Grace’. . . Mr Olapade was the head of the church at the time. It is true.”

43. The transcript records that the Claimant referred to a photograph which she said was her father when he came to London. The Claimant said that they went to the house where he lived. The Claimant was asked why her parents would support someone else’s application. She said that she could not answer that. Later on, she said that “At the moment we’re not talking.” She also said further on in the interview: “I know my daddy is deliberately doing this because I decided, he said, because he told me I emulated him. Being the first-born, his first-born, and because of his position in Nigeria that I would, a whole Sharia Court, the whole Imam for his daughter got married to, and I have a child out of wedlock. The first two children I had because he wouldn’t accept my husband, because he wouldn’t accept my hand in marriage at this time.”
44. The transcript records the Claimant saying that she was not born “Lara Banjo”; and that she did not know who Omolara Akande was.
45. At the hearing before me, the Claimant was asked a few supplemental questions by Ms. Norman. The Claimant said that she remembered being interviewed in 2016 but said that she was not cautioned at the outset of the interview. The Claimant was shown a photograph from the bundle, which she said was of her father, standing in front of a house (No. 49) where she was told she was born. She said that her father was angry with her for being a Christian and came to see her in London.
46. The Claimant was asked whether she was surprised that her parents would be untruthful (in connection with the suggestion that she was not the true daughter). She said that she was “Not surprised. When my dad married his second wife, we did not know about this for 8 years. . . . Never told the family until 7-8 years later.”
47. The Claimant was asked about the suggestion that her sister Sefiyat, had been given the name “Tokunbo”. The Claimant said that she did “not know her as Tokunbo”, and that she had never known her as that. She had known her as “Sefi Orire”. She was not aware of a change of name. The Claimant was asked if she knew a pastor Akande. She said that she did “not know any pastor Akande.”
48. The Claimant was asked by Ms. Norman about the suggestion that her maternal uncle had been contacted, and that the uncle said that he knew her as Grace Omolara, the daughter of pastor Akande. The Claimant answered that she did

“not know anything of that, until after I went for interview in 2016. I called my uncle to report to his sister as to what my mum is doing. He said don’t call me on the number I know, that number is

tapped. He told me that two months previously, police arrested him and detained him for 3 days. I asked why? You know your Dad. Has to tell British ambassador that he not know me as niece, but should say pastor's daughter.

I asked him if he knew the pastor's number, and he said that pastor had died ages ago."

The Claimant also said that she did not know any of the pastor's children.

49. The Claimant was cross-examined by Mr. Hansen, on behalf of the Secretary of State. She gave her date of birth as June 10th, 1963; she said that she was born in London, and returned to Nigeria in 1964. She gave her parents' names. In response to a question as to their dates of birth, she provided their months and years of birth (December 1934 (father), and February 1942 (mother)). The Claimant said that at birth she was given the name "Safiyat Anke Orire", not "Safiyatu". She understood that the birth certificate referred to "Safiyatu", but she said that "in Muslim way call it Safiyat." She said that there were seven direct brothers and sisters, including herself.
50. She said that one of her siblings was "Sefiyat Tokunbo Abdulkadir". She was asked what "Tokunbo" means, and she said, "Not born in my town". She was asked whether she accepts that the word means beyond the seas? She said she did "Not call my children that. I was born here, my parents never called me Tokunbo." She said that she did not agree with the meaning of "Tokunbo" as being "from overseas/across the seas".
51. The Claimant explained that soon after she came to the United Kingdom, on October 29th, 1989, she was involved in a fire accident at her church. She said that she had suffered serious burns and had had a skin graft.
52. She said that her parents were devout Muslims, and that she converted to Christianity "As soon as came to London", in 1989. She was asked why? She said "When I met my partner – he is Christian – I loved being Christian. Whenever went to uncle [in Nigeria] went to his church. Preferred being a Christian."
53. She was asked when she took the name "Grace". She said in 1990. It was put to her that the reason she had given for why her parents were siding with her sister was because they have disowned her following conversion to Christianity. She was asked whether they had disowned her straight away. She said "No, they didn't know that I had changed name at all." She said that they did "not know husband was Christian. Only when Dad came to UK. They never disowned me until realised that I was fully a Christian". When asked when this was, she said "Accurate answer is I don't remember. When they fully realised that Christian. He said I am a disgrace to him."
54. It was put to the Claimant that her case was that the parents' disowning of her, siding with Sefiyat, and saying that she was not their true daughter was her parents' revenge for her becoming a Christian. She answered "Yes, that is [the] explanation."
55. The Claimant was asked about the interview in 2016, and that she was told at the interview that someone else had obtained a passport in the identity of Sefiyat Anke

Orire. The Claimant said that they did “Not say that, they say someone else claimed to be Sefiyat. Not that anyone claimed a passport in that name.” The Claimant was then shown by Mr. Hansen a passage in the interview transcript which referred to a person applying for a passport. The Claimant was asked why her parents would support someone else, she said “I don’t know I can’t answer that.” That they were “not talking”. She said that the interviewers “didn’t say anything about British passport. They showed me a picture as to Sefiyat, and I said that is Seffi. Not say anything about British passport”.

56. The Claimant was asked when she was given her birth certificate. She said that her mother “never gave it to me. [It was] always with me.” She said “Each of us have them. Got it from when I went to secondary school.” She was asked where she kept it, and she said “In my small document box”. Later in questioning, she said that the birth certificate was kept in her mother’s wardrobe in a drawer, and that she did not retain possession of it. The Claimant said that she was given it for the last time “When I said going to UK. In 1989”. She said that she had the original with her from then, and that nobody could take a photocopy of it.

57. It was put to her that when (her sister) Sefiya Tokunbo Abdulkadir applied to renew the passport in 2014, she produced 2 forms of birth certificate: a non-contemporaneous copy, and a photocopy of contemporaneous birth certificate. It was suggested to the Claimant that the other claimant to this identity had possession at some point of the original birth certificate, because she or her parents made copy of it. The Claimant said that the birth certificate was with her mother until she got it; she did “not know anything about it”. As for the suggestion made by her sister and her mother that the original birth certificate was lost, and that they discovered that fact in about 1996, the Claimant said that she “Can’t help with that”.

58. With respect to her names, the Claimant said that her husband had given her the name Omolara. That she gave herself the name “Imoleayo”, which means “seeing the light”. She said that she gave it to herself when she “became a Christian”. As for the name Grace, the Claimant said:

“When I had fire accident, nurse found it difficult to pronounce Safiyat. Someone said you have the grace of God by not dying; that is when added Grace to my name”.

It was put to the Claimant that this was inconsistent with what she had said in interview with HMPO. In interview, she said that she took the name Grace “right from day one”. It was put to the Claimant that what she had said in interview suggested that she was attracted by the name “Grace” earlier in her life. The Claimant replied:

“I never said from ‘day one’. I said after my accident. I started to using Grace in 1990”.

The Claimant was asked whether the transcript was an accurate reflection of what she had said in interview. She said “No”.

59. It was put to the Claimant that her name change was not so innocent, that the name Omolara was used because her real name is Omolara Akande, also known as Lara

Banjo. The Claimant responded: “No one ever called me that name. Always used Orire-Banjo, never Banjo alone”.

60. The Claimant was asked if she has a brother who is a pastor in Nigeria. She said “No”. It was put to her that inquiries were made, and the investigator came across a pastor who seemed to know her as Grace Omolara, and also as Grace Omolara Orire-Banjo, living in the United Kingdom. The Claimant was asked if she knew anything about that. She said “No”. She said that she was no relation of Olapade Akande.
61. The Claimant was shown the invitation to the burial ceremony for Olapade Akande in 1999 and was referred to the “RSVP” to Omolara Banjo. She said, “If I know this man, why is it RSVP to this name, and not to Grace Omolara Orire-Banjo”.
62. The suggestion was put to the Claimant that when Sefiya Tokunbo Abdulkadir was interviewed in Lagos, she was shown a picture of the Claimant who she identified as “Lara”, someone who Sefiya knew many years ago who had spent nights in the family’s house; and that the maternal uncle had said that he had introduced Grace to the parents. The Claimant denied that this was correct. She denied living with the family as a guest in the 1980s. She said “Why would I? They are my parents”.
63. It was put to the Claimant that she was not given the birth certificate by her mother and that she was not the rightful owner of it. In response, the Claimant said, “In 1994, if [I am] not the rightful owner, why did mother send passport to me, and Dad send picture to me with grandchildren”.
64. The Claimant was asked again about the name “Tokunbo”, which it was said meant born abroad and brought back to Nigeria. She said “I asked a friend, why have name Tokunbo? She said born in Mecca.” It was put to the Claimant that a *Google* search referred to in the Case Running Notes recorded that “Tokunbo” meant “from overseas”. It was put to the Claimant that it was not a coincidence that Sefiyat was called “Tokunbo”. The Claimant said that “No one called her Tokunbo”. She said her sister Sefiyat was born on September 10th, 1965.
65. It was put to the Claimant that it was not very probable that she was “Safiyat”, born in 1963, and her parents had another daughter 2 years later who they called “Sefiyat”, just changing the “a” to an “e”. The Claimant was asked who would come running if a name was shouted. The Claimant expressed disagreement with the proposition.
66. In re-examination by Ms. Norman, the Claimant said that Safiyat and Sefiyat are “Different names”. When asked why her sister would call herself “Tokunbo” if she was not born abroad, she said “Not know. Never called her that”.
67. When asked what had happened with her father, she said that she was not supported by him. She said that she had had a “Child out of wedlock. Because I am first born, supposed to do elaborate wedding. I went to registry to get married”. She said that their relationship was “in waves. If he wants me to help him, relationship better. In 1998 when husband left me, he told me so. Asked us to come home, to reconcile. I went home and told him the version. [Father] said I was a disgrace and came back to London.” She said that her father had disowned her in 1999: “I disgraced him being married to non-Muslim. But when he came to London, I made him happy.” The

Claimant said that she went to Nigeria in February 1999. (In the skeleton argument on behalf of the Claimant, it is said in connection with the burial invitation that “her passport copies show that she did not visit Nigeria in 1999”).

68. When asked by the Court what caused the final separation with her father, the Claimant said: “Husband left me in 1998. Called my Dad. Prompted him to say, ‘I told you’. What would have happened if you had married a Christian man? Wanted both of them to go to Nigeria. I went back only. He wanted to sort it out. To my father, I had brought disgrace to the family – someone not having a husband. Not want to have anything to do with me.”

Is Grace Omolara Imoleayo Orire-Banjo the person born in London on June 10th 1963 as Safiyatu Anke Orire?

69. There is no doubt that there was a girl born in London on June 10th, 1963 to Nigerian parents (Abdulkadir Orire and Adijatu Orire) who were temporarily living in the United Kingdom. The girl’s name at birth was Safiyatu Anke Orire. There is also no doubt that the parents and their daughter returned to Nigeria in 1964. There are two people claiming to be Safiyatu Anke Orire. I have to decide whether the Claimant is the girl born in London as Safiyatu Anke Orire.
70. In summary, I have concluded that the Claimant was not that girl, based on (i) the credibility of the Claimant when giving evidence before me; (ii) the evidence supporting the claim of Sefiya Tokunbo Abdulkadir to the girl’s identity; and (iii) the evidence as to who the Claimant really is.

(i) The credibility of the Claimant when giving evidence before me

71. I have carefully considered all of the evidence that has been presented to me. I had the opportunity of seeing and hearing from the Claimant in person and acknowledge that she has not only provided a Statement of Truth to her witness statement signed by her on November 9th 2020, but she has also given evidence before me under oath. I have not had the same opportunity with respect to Sefiya Tokunbo Abdulkadir, and she has not provided a witness statement, nor have her parents, her maternal uncle, or the pastor Akande, or the investigators in Nigeria.
72. Nevertheless, this is a case where it was necessary for the Claimant to give evidence. Apart from the fact that she was directed to attend Court by Holman J, it is her claim for citizenship that I have to consider and (as I have explained) she has the legal burden of proof as to that matter. Furthermore, in light of the points made against her, it was likely that she would want to put forward her version of events. In many ways, the Claimant’s evidence, including under cross-examination was consistent with what she had set out in her witness statement, and had said in her interview in 2016. The core of her story remained the same. There were, however, a number of matters which caused me real concern and cast considerable doubt on the overall credibility of her evidence.
73. In particular, I did not find at all credible her answer to the supplemental question asked by her counsel, Ms. Norman, about the suggestion that her maternal uncle had been contacted, and that the uncle said that he knew her as Grace Omolara, the

daughter of pastor Akande. The Claimant's answer was that her uncle had told her that his telephone number was tapped, that he had been arrested and detained, and that this was due to her father, and that he had to tell the British ambassador that he did not know her as his niece but as the pastor's daughter. The Claimant's answer, if true, would have gone some considerable way to neutralise the report produced by Assistant Dagunduro as to what had been said by the maternal uncle: that he had introduced Omolara to the parents of Sefiya Tokunbo Abdulkadir. However, if the Claimant's answer was true, there is no reason why it could not have been provided as part of the Statement of Facts and Grounds submitted on May 19th, 2020, or in the Claimant's witness statement which she had signed on November 9th, 2020. The Claimant said that she had spoken to her uncle after the interview in 2016. The fact that such an important matter was not mentioned in either of those documents' casts considerable doubt on its veracity. Furthermore, the allegations themselves seem somewhat far-fetched, even on the Claimant's own case that her father was acting out of revenge towards her.

74. I also found the Claimant to be evasive and lacking credibility when asked a number of questions about things that she was reported to have said, or what was reported to have been said to her, in her interview with HMPO in 2016. On a number of occasions, the Claimant denied that things had been said or done, when it was plain from a review of the transcript that they had been. Of course, I appreciate that the interview took place several years ago and the Claimant could not be expected to recall precisely what had taken place. Nevertheless, the Claimant had had a copy of the transcript for several months before she prepared her witness statement, and before she gave evidence at the substantive hearing. Had the Claimant wished to take issue with any of the content of the transcript, she could have made her points in advance of her oral evidence. She had not done so. It seemed to me that the Claimant was seeking to evade points that she perceived to be difficult for her, or which might undermine her version of events.
75. The particular matters that I am referring to are whether the Claimant was cautioned at the outset of the interview. In response to a supplemental question from her counsel, Ms. Norman, the Claimant said "No". Yet the caution is referred to on page 2 of the interview transcript, after she had been asked to give her name, date of birth, her place of birth, and was told that she had the right to seek legal advice and had a right to consult the Codes of Practice under the Police and Criminal Evidence Act. I do not know why the Claimant denied that she had received a caution, but it raised concerns for me about her credibility.
76. In addition, the Claimant was asked in cross-examination whether at the interview she was told that someone else had obtained a passport in the identity of Safiyat Anke Orire. The Claimant said that they did "Not say that, they say someone else claimed to be Safiyat. Not that anyone claimed a passport in that name." Even after she was shown the passage in the transcript which referred to a person applying for a passport, the Claimant said that the interviewers "didn't say anything about British passport. They showed me a picture as to Sefiyat, and I said that is Seffi. Not say anything about British passport". Her answer was obviously wrong and was directly contradicted by the text that was shown to her. This raised further doubts about her credibility.

77. Furthermore, during cross-examination the Claimant explained the circumstances in which she added the name “Grace”: see [58] above. The transcript of the interview referred to the Claimant saying that she had taken the name “right from day one”, but the Claimant specifically denied that she had said that to the interviewers from HMPO. The Claimant had not sought to correct the transcript, however, or even give the Secretary of State advance notice that she had concerns about the transcript before the substantive hearing. I would have expected this to have been done if the Claimant genuinely had such concerns.
78. Moreover, the suggestion that the Claimant had taken the name “Grace” as a result of the fire accident, in circumstances where a nurse had had difficulty with her name Safiyat, and someone had talked about “the grace of God by not dying”, was an entirely new reason given by her for taking that name. It had not been referred to in the interview transcript, or in her witness statement signed only weeks before the substantive hearing. This caused me to doubt the Claimant’s credibility.
79. In addition, I was troubled by the fact that in cross-examination the Claimant said that she did not know why her sister would call herself “Tokunbo” if she was not born abroad. She said that she “Never called her that”. Yet, in her own witness statement (as set out at [26] above), she said that she had been written to by her “sister Tokunbo”. This indicated that the Claimant had called her sister “Tokunbo”, although she denied it when questioned by Mr. Hansen. This was a significant matter, given the importance that was placed by the Secretary of State on the use by her sister of the name “Tokunbo”.
80. These matters -- both when they are considered on their own, and even more so when considered cumulatively -- caused me to have significant doubt as to the Claimant’s credibility with respect to the essential points in the case: her true identity.

(ii) The evidence supporting the claim of Sefiya Tokunbo Abdulkadir to the identity of Safiyatu Anke Orire

81. There were two pieces of evidence which provided considerable support for the claim by Sefiya Tokunbo Abdulkadir that she was the person born in London on June 10th, 1963 as Safiyatu Anke Orire, rather than the Claimant. First, I refer to the very use of the name “Tokunbo” by the Claimant’s purported sister. There was evidence in the hearing bundle that the name “Tokunbo” means “from overseas” or “from over the seas”. This is referred to in the Case Running Notes, which state that “Google check conf[irm]s Yoruba meaning of name ‘Tokunbo’, is ‘from overseas’, ‘from across the sea’ which would agree with UK birth”.
82. According to the report of Assistant Dagunduro, the Claimant’s purported sister had been using the name “Sefiya Tokunbo” from when she returned to Nigeria. It is difficult to understand why this name would be used for a child who was born (as alleged by the Claimant) in Nigeria, when there was another child who was actually born overseas but had not been given this name. It is far more likely that this name “Tokunbo” would be used for a child who was actually born overseas.

83. In her submissions, Ms. Norman suggested that the name may have been given to Sefiya because she was a child conceived overseas¹ or her conception was shortly after the parents had been overseas. On the Claimant's case, Sefiya's date of birth was September 10th, 1965. She could not have been conceived overseas, if (as the evidence indicates) the parents sailed to Nigeria from Liverpool more than one year prior to her birth: on August 28th, 1964. In any event, it makes no sense to me that the name "Tokunbo" would be given to a child who was not born, or conceived overseas, when the family had a child who was actually conceived and born overseas.
84. In my judgment, the very naming of Sefiya Tokunbo Abdulkadir with "Tokunbo" makes it highly likely that she was the child born in the United Kingdom to her parents, rather than the Claimant.
85. Secondly, the claim of Sefiya Tokunbo Abdulkadir to the identity of the child born in the United Kingdom on June 10th, 1963 is also supported by the fact that both her parents attended an interview in support of her application in 2004, and both parents confirmed that she was their child who had been born in the United Kingdom. Ms. Norman, on behalf of the Claimant, submitted that it was telling that the parents had not attended the interview in 2014. Ms. Norman argued that the parents may have been willing to say in 2004 that one daughter was another, but they did not make the positive case in 2014 that the Claimant was actually "Lara". However, there is no suggestion in the evidence that the parents were requested to attend the interview in 2014, or that they otherwise needed to be there. There is also no suggestion in the evidence that the parents knew that they would or might be asked to identify the Claimant from a photograph of her (as Sefiya Tokunbo Abdulkadir was), or to say anything about her. I draw no inference, therefore, from their absence from the 2014 interview, or from the fact that they have not given an account of who the Claimant is.
86. In her skeleton argument on behalf of the Claimant, Ms. Norman refers to evidence contained in Mr. Ormiston's witness statement which says that Sefiya Tokunbo Abdulkadir "had a little book with all siblings' details, which was used when completing the family member's form". It was submitted that this would be extraordinary for someone who was sure of their own place in the family but explicable if she was trying to keep track of the gap between a sister she was impersonating and the younger siblings. I do not, however, regard the fact that this book was used to complete the form as "extraordinary" when we are dealing with a family of five direct siblings (on Sefiya Tokunbo Abdulkadir's case) and many more half-siblings.
87. Ms. Norman also points out in her skeleton argument that there were doubts about the credibility of Sefiya Tokunbo Abdulkadir in the Case Running Notes. However, the concern expressed in those notes was that Sefiya may not have disclosed "the full extent" of the relationship between her or her family and the Claimant. That does not mean, however, that HMPO considered that the Claimant was, in fact, the sister of Sefiya Tokunbo Abdulkadir; nor does it undermine the evidence in support of Sefiya Tokunbo Abdulkadir's claim to the identity of Safiyatu Anke Orire.

¹ For this, reliance was placed on an article on a website <http://news.bbc.co.uk/1/hi/world/africa/3321575.stm> which says that "the name "Tokunbo" is given "to those conceived abroad - ie: across the sea (okun). Tokunbo now also refers to second hand goods brought in from "across the sea"". The word is also used for valuable imported goods".

(iii) The evidence as to who the Claimant really is

88. There is also further evidence that, if true, undermines completely the Claimant's claim to the identity of the child born in the United Kingdom on June 10th 1963: the material contained in the file note of Assistant Dagunduro from February 23rd 2015 points to the Claimant being "Lara", someone who used to stay at Sefiya Tokunbo Abdulkadir's house when she was a student; that Lara's real name was Omolara and she had been introduced to the family by the mother's uncle; that Omolara's father was Olapade Akande the pioneer of a church in Ibadan; and that a child of Olapade Akande who was himself a pastor had claimed to have a sister living in London with the name Grace Omolara, also known as Grace Omolara Orire-Banjo. That is, the Claimant's name.

89. That evidence is all hearsay, as none of the witnesses who provided this evidence have provided a witness statement to the Court. I have considered, in light of section 4 of the Civil Evidence Act 1995, whether to give any weight to the file note of Assistant Dagunduro, and if so what weight to give to it.

90. Section 4 of the Civil Evidence Act 1995 provides that:

(1) In estimating the weight (if any) to be given to hearsay evidence in civil proceedings the court shall have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.

(2) Regard may be had, in particular, to the following—

(a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness;

(b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated;

(c) whether the evidence involves multiple hearsay;

(d) whether any person involved had any motive to conceal or misrepresent matters;

(e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose;

(f) whether the circumstances in which the evidence is adduced as hearsay are such as to suggest an attempt to prevent proper evaluation of its weight.

91. I acknowledge that no witness statement has been obtained from any of the people whose evidence is contained in the file note, and I have no reason to believe that it would not have been reasonable or practicable to produce any of those people as a witness, even if by means of a witness statement with a statement of truth.

92. I also acknowledge that the note produced by Assistant Dagunduro was not contemporaneous with the interview of Sefiya Tokunbo Abdulkadir, or with the conversation with the maternal uncle or the pastor. It appears to be a compendium of

the various conversations written within a couple of months at most from the interview. (Sefiya Tokunbo Abdulkadir's online assessment form for her passport was dated December 5th, 2014, and the file note was dated February 23rd, 2015). The file note contains some of Assistant Dagunduro's opinion, based on the materials received and conversations carried out. There is no basis to allege, however, that Assistant Dagunduro was acting in bad faith in any way but was merely carrying out his or her task in a professional way.

93. The comments ascribed to Sefiya Tokunbo Abdulkadir (naming "Lara" from the photograph of the Claimant, and explaining that Lara stayed with the family when she was a student, and had been introduced to the family by the uncle) could have been based on an improper motive: as "revenge" against the Claimant or to advance her own passport application. However, Sefiya Tokunbo Abdulkadir would have run the risk that her version of events would not be backed up by her maternal uncle. It was suggested by the Claimant that the maternal uncle had been pressurised to give false evidence and had even been arrested and detained for a few days. As I have already explained, however, I find this explanation to stretch credulity, especially when it was not referred to in any of the materials produced for the Court, including the Claimant's witness statement signed on November 9th, 2020.
94. With respect to the comments from the son of Olapade Akande, I do consider that it is necessary to exercise a degree of caution as to those comments given the circumstances in which his conversation with Assistant Dagunduro took place (initially by telephone when he was on a public bus) and without knowing precisely how the questions were put to him. However, I have no concerns as to his motives in saying what he is reported to have said. It is not suggested that he had any improper motive; and the Claimant did not allege that he had been put under any pressure not to tell the truth. Furthermore, the evidence of the son of Olapade Akande is corroborated by the invitation to the burial ceremony that was provided to Assistant Dagunduro by Sefiya Tokunbo Abdulkadir.
95. The invitation shows that guests were asked to respond (by way of RSVP) to two people, one of whom bears the name Adewale Akande (the same last name as the deceased), and the other with the name Omolara Banjo: these are two of the Claimant's names. It would, in my judgment, be an incredible coincidence if Sefiya Tokunbo Abdulkadir had identified the Claimant as being "Lara" from a photograph of her, and had then produced the burial programme for Lara's father which gave the name of Omolara Banjo as one of the people to send one's RSVP to, if that "Lara" was not in fact the Claimant but was someone else entirely who happened to use two of the Claimant's names. (I cannot say for certain that the Claimant attended the burial ceremony of Olapade Akande as her passport does not contain any stamps for Nigeria in 1999. However, the lack of a stamp in the passport does not mean that she was not there. On the Claimant's own case she told the Court that she was in Nigeria in February of that year for another purpose (see [67] above), and yet there is no record of this in her passport, and even though her counsel's skeleton argument says that the Claimant's "passport copies show that she did not visit Nigeria in 1999").
96. In the circumstances, and especially in light of the invitation to the burial ceremony which corroborates the version of events set out in the notes prepared by Assistant Dagunduro, I consider that those notes can be relied upon and I accord them real

weight. On their face, they provide strong evidence that the Claimant is really someone other than Safiyatu Anke Orire. In simple terms, the Claimant was identified as “Lara” by Sefiya Tokunbo Abdulkadir; the maternal uncle claimed that he introduced her (Omolara) to the family, and that her father Olapade Akande was the pioneer of the church that he attended; the son of Olapade Akande said that his sister was Grace Omolara, living in London, also known as Grace Omolara Orire-Banjo. This all points to the Claimant being Omolara Akande (whose married name is Banjo).

97. The Claimant’s explanation for the case against her is that this is all a conspiracy from revengeful parents, her sister, and other third parties. Although different explanations have been provided by the Claimant at different times for why the parents are revengeful towards her -- having a child out of wedlock, converting to Christianity, marrying her husband, her husband not coming back to Nigeria with her to allow the father to try to effect a reconciliation – I accept that she may not know the reason or reasons why they have done what they did, and this cannot be held against her. However, the third parties that form part of the conspiracy include the maternal uncle, as well as the son of the deceased pastor. The uncle is otherwise commended as someone who is truthful, as someone who gave a very clear answer to the passport examiner and the only explanation suggested for why he had done so was that he had come under pressure from the Claimant’s father (and was even arrested and detained in the process), which I do not accept is credible. The son of the deceased pastor does not appear to have any reason not to tell the truth. It seems to me that a conspiracy involving these third parties stretches credulity. More likely is that they were telling the truth about the Claimant: that she was, in fact, Omolara Akande (now Banjo).
98. I do recognise that there are a number of matters in the evidence that support the Claimant’s claim. Nevertheless, they do not in my judgment lead to the conclusion that the Claimant is who she claims to be, especially in circumstances where there is evidence that a young woman called “Lara”, who was introduced by the maternal uncle, lived with the Orire family when she was at school.
99. First, I note that the Claimant had access to the original birth certificate for Safiyatu Anke Orire. However, this could have been stolen from the family. This was consistent with what the mother said at interview in 2004: that the original had been lost or misplaced during a house move.
100. Second, I note that the Claimant provided her mother’s passport with her name in it (that is, the passport the daughter travelled on when she returned from the United Kingdom to Nigeria in 1964) when her son applied for a passport in 1994. Again, this could have been stolen from the family. This was consistent with what the mother said in 2004 at interview: that this had been lost or misplaced during a house move.
101. Third, I noted that there are photographs of the Claimant at Sefiya Tokunbo Abdulkadir’s wedding in Nigeria, as well as photographs of the Claimant with her in-laws and her parents in Nigeria, and of her father and two of her children in London. These could all be explained by the fact that the Claimant had been a family friend. Indeed, the report of Assistant Dagunduro referred to family photographs having been sent from the Claimant to Sefiya Tokunbo Abdulkadir’s family in the early 1990s, and that she had also informed them of a fire accident. This indicated that there was an

ongoing relationship between the Claimant and the Sefiya Tokunbo Abdulkadir's family after she had lived with them as a student. It was not just a fleeting relationship.

102. Fourth, I note that the Claimant gave detail about the family, and had even identified her father's judicial friend during the interview with HMPO in 2016. It was argued by Ms. Norman that this detail was unlikely to be available to someone who stayed a few times with the family in the 1980s. However, that was not the case being put by the Defendant. The report of Assistant Dagunduro said that "Lara . . . used to pass night in the family house of the Abdulkadir". It was not said that this was on a few occasions only. Furthermore, the detail given by the Claimant was not as great as Ms. Norman suggested. The Claimant did not know the names of the various children of her father from his other wives; and did not even know the names of each of the wives. (In fact, the Claimant repeatedly stated that the father had four wives, when the evidence given by the parents and Sefiya Tokunbo Abdulkadir in 2004 was that he only had three wives. The Claimant also did not know the dates of birth of her parents). The name that the Claimant gave for the father's judicial friend (even if she had correctly identified him, which we do not know) may have been known by the Claimant had she stayed in the family house during her time as a student in the area, or had met him later when she attended the wedding of Sefiya Tokunbo Abdulkadir.

Conclusion

103. In all of these circumstances, I consider that the Secretary of State has clearly satisfied the evidential burden of proof. The Secretary of State has by a considerable margin satisfied me, on the balance of probabilities, that the Claimant is not the person born in England on June 10th, 1963 as Safiyatu Anke, the child of Nigerian national parents: Abdulkadir Orire and Adijatu Orire. Accordingly, I refuse to grant a declaration that the Claimant is entitled to be a British citizen.
104. In light of my finding, I must also dismiss the Claimant's challenge to the Secretary of State's decision to revoke her passport in 2017, and to refuse to issue the Claimant with a fresh passport in 2020. If, as I have found, the Claimant is not who she claims to be, then the passport decisions were plainly lawful. Furthermore, applying the test set out by Burnett J. in *Liaquat Ali*, there were plainly "cogent reasons" to justify the Secretary of State's passport decisions.
105. In conclusion, therefore, I dismiss this application for judicial review.

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