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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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IN THE MATTER OF AN APPLICATION BY
TOYIN OYEWUMI OYEGBAMI FOR JUDICIAL REVIEW

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STEPHENS J

Introduction

[1] The applicant, Toyin Oyewumi *Oyegbami*, is a Nigerian national born in Nigeria on 13 July 1963. She travels on a Nigerian passport. When applying for a United Kingdom visitor's visa she identified her parents as James Olatunji *Olabode* and Comfort Duro *Olabode*. She gave her permanent home address as No. 14, Ibrahim Alkali Street, Gra Zaria. She stated that she was married to Olathno Olarewash *Oyegbami*. She stated that since 18 October 1993 she had traded from a shop in Zaria. That she had her own income from that employment together with income from other sources. That she owned land. That she was going to the United Kingdom on a "business trip" which she was paying for herself and that she had £5,000 available to her for her stay.

[2] On Saturday 12 January 2007 the applicant arrived in the United Kingdom at Heathrow Airport. On Monday 14 January 2007 the applicant travelled from Heathrow to Belfast City Airport where John Harrison, Liverpool Immigration Service, was on duty. He encountered the applicant. She produced a Nigerian passport with a United Kingdom visitor's visa which had been issued to her on 29 August 2005. He noted that she had last entered the United Kingdom on 12 January 2007 at London Heathrow. Upon questioning the applicant Mr Harrison formed the view that she could provide no credible explanation regarding the reason for her travel to Belfast despite the applicant having travelled to Northern Ireland within 48 hours of her arrival in the United Kingdom. He searched her luggage with her consent and found a National Westminster Bank diary, a page of which detailed a combination of numbers that he recognised as a reference number used by the Garda National Immigration Bureau in the Republic of Ireland. Checks were

conducted with that Bureau and it became known that the applicant had been made subject to a deportation order in the Republic of Ireland.

[3] At 3.15 pm on 14 January 2007 Mr Harrison, Immigration Officer 5292, conducted an interview under caution with the applicant. The interview was recorded on "Immigration Service Form ISCP4". The caution given at the start of the interview was in the following form:

> "You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence. Do you understand?"

To that question the applicant answered "Yes". All the questions and answers were recorded in handwriting during the course of the interview. The handwritten record of each individual question was initialled by Mr Harrison. The applicant was invited to and did initial all the answers as did Mr Harrison. Prior to the interview taking place the applicant was not informed that she could obtain legal advice. Mr Harrison states that this was because "the purpose of [the] interview was solely to establish the immigration status of the Applicant, and not in order to pursue criminal prosecution".

[4] After that interview he referred the case to the Chief Immigration Officer, Peter Bradshaw. Mr Harrison recommended to Mr Bradshaw that it would be appropriate to find that the applicant was an illegal entrant. A decision was then made to find that the applicant was an illegal entrant on the basis that she had practised verbal deception contrary to Section 26(1)(c) and an offence under Section 24(a)(1)A of the Immigration Act 1971. In coming to that decision Mr Harrison has deposed that all discretionary areas were considered by him and by Mr Bradshaw in compliance with Home Office policy. That they both agreed that in this case it was not appropriate to exercise their discretion in favour of the applicant. The reference to Home Office policy was a reference to the respondents own policy document, Operation Enforcement Manual, Chapter 7. This policy makes provision for two stages to the decision making process. First whether the person is in fact an illegal entrant. Second as to whether it would be fair to the person in all the circumstances to treat them as an illegal entrant and to serve a notice of illegal entry. No note was made of the exercise of that discretion by either officer. On 14 January 2007 it was not then specified as to when or where the verbal deception had occurred but it is the respondent's case that the verbal deception occurred on arrival at Heathrow on 12 January 2007 and during the interview under caution on 14 January 2007.

[5] The decision sought to be impugned in these proceedings is the decision made by the Immigration Officers on 14 January 2007 that the applicant was an illegal entrant. On that date the applicant's United Kingdom visa application form dated 29 August 2005 was not available to Mr Harrison and Mr Bradshaw. Accordingly the decision at that stage was made purely on the basis of alleged verbal deception practised during the course of the interview under caution and on arrival at Heathrow. The applicant commenced these proceedings on 17 January 2007 and in these proceedings challenged the admissibility of any evidence in respect of the interview under caution. At that stage the respondent was relying upon the contents of the interview under caution to establish that the applicant was guilty of deception and accordingly was an illegal entrant. If the applicant was successful in relation to her challenge to the admissibility of any evidence in respect of the interview under caution then it was contended that it would be impossible for the respondent to establish to a high degree of probability that the applicant was guilty of deception and accordingly was an illegal entrant.

[6] In relation to the issue as to the admissibility of any evidence relating to the interview under caution it was contended on behalf of the applicant that prior to the interview on 14 January 2007 she ought to have been, but was not, advised that she was entitled to access to legal advice. The respondent's case is that the applicant was interviewed under caution because the applicant "could provide no credible explanation regarding the reason for her travel to Belfast despite the applicant having travelled to Northern Ireland within 48 hours of her arrival in the United Kingdom" and also because a check with the Garda National Immigration Bureau revealed that the applicant had been made subject to a deportation order in the Republic of Ireland. In short it was suspected that the applicant was guilty of deception and was therefore an illegal immigrant. It is an offence under Section 24(a)(1)(a) of the Immigration Act 1971 for a person who is not a British citizen to obtain or seek to obtain leave to enter or remain in the United Kingdom by deception. A person guilty of such an offence is liable to imprisonment for a term not exceeding 6 months or 2 years depending on whether the conviction was summary or on indictment. The applicant could have been prosecuted for such an offence. The applicant contends that in those circumstances where she was to be interviewed in relation to a potential offence, she ought to have been advised that she was entitled to access to legal advice prior to the interview taking place.

[7] Article 59(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 provides that:-

> "A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult a solicitor privately at any time."

A code of practice has been issued under Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989. That code provides that a person who is to be interviewed should be informed of his right to legal advice. The applicant was not informed of her right to obtain legal advice prior to the interview. The applicant contends that, as a result, I should exclude the interview evidence. The respondent contends that Mr Harrison, the immigration officer, was solely enforcing administrative powers during the interview under caution. That the purpose of the interview was to ascertain the applicant's immigration status and whether it was appropriate to detain and remove her pursuant to the administrative powers contained within the Immigration Act 1971. That there was no need to advise the applicant of a right to legal advice prior to the interview as the purpose of the interview was to ascertain her immigration status. As a result there was no need to comply with the provisions of code of practice issued under Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and accordingly there was no reason to exclude any of the interview evidence.

[8] After the decision was made on 14 January 2007 and after these proceedings were commenced the applicant's United Kingdom visitor's visa application form has become available and it has been exhibited to the affidavit of John Harrison sworn on 4 April 2007 and filed in relation to these proceedings. The Secretary of State for the Home Department, the respondent, relies on the contents of that application form to establish that the applicant was guilty of deception and accordingly was an illegal entrant quite apart from any verbal deception during the course of the interview under caution and on arrival at Heathrow. In particular the respondent asserts that the applicant was guilty of deception when completing the United Kingdom visitor's visa application form in that:-

(a) she gave an incorrect family name for herself and incorrect family and first names and dates of birth for her children; and

(b) she stated that she had never been refused entry to, deported from or otherwise required to leave, another country whereas she was the subject of a deportation order dated 21 July 2005 issued by the Minister for Justice and Law Reform in the Republic of Ireland.

[9] Accordingly the question as to whether the interview evidence should be excluded does not arise if the respondent's contention is correct that the applicant was guilty of deception in completing the United Kingdom visitor's visa application and was accordingly an illegal entrant. I propose to deal first with the issues in respect of the applicant's application for a United Kingdom visitor's visa and when doing so I will not take into account anything that occurred in the course of the interview under caution.

Relevant legal principles

[10] In *an application by Michael Odunnayo Ajayi for leave to apply for judicial review* [2007] NIQB 87 Mr Justice Weatherup stated at paragraph [8]:-

> "From the House of Lords decision in Khawaja v Secretary of State for the Home Department [1984] 1 AC 74 a number of propositions may be stated in relation to those who seek entry into the UK:
>
> 1. There is authority to detain and remove a visa holder if that person is an illegal entrant.
>
> 2. The Immigration authorities must establish to the highest degree of probability that the applicant in question is an illegal entrant.
>
> 3. The applicant may become an illegal entrant if he is guilty of deception in relation to his United Kingdom visa.
>
> 4. There is no duty of candour on the part of an applicant. However, an applicant must not mislead the authorities on a material fact and that may occur either expressly on his visa application or in communication with Immigration authorities or by conduct or by silence coupled with conduct."

[11] Mr Justice Weatherup went on to state at paragraphs [14] and [15] that –

> "[14] … While there is no duty of candour it is nevertheless the case that if a visa is obtained on specified grounds and the applicant intends to enter the UK for alternative or additional reasons there is a duty to disclose the full grounds for entry into the country and it is deception to impliedly represent that there has been no change of circumstances to the specified grounds of entry.

> [15] The application of this proposition in the context of the present case is as follows. To obtain an entry visa for, say, tourism in the UK and then to present to the UK Immigration authorities, when it was the undeclared intention on both occasions to use the entry visa as an opportunity to travel to Northern Ireland and hence to the Republic of Ireland, is a material deception. The stated reason for entry does not represent the totality of the reasons for entry to the UK. Similarly, if a visa is obtained for a stated purpose and the visa holder later forms an intention to use the entry visa for alternative or additional purposes, that change of circumstances must be disclosed when the visa holder presents to Immigration officers."

Accordingly if an individual completes a United Kingdom visitor's visa application form on an untruthful basis then he is guilty of deception not only at the time of completion of that form but on each occasion that he presents his visa to gain entry to the United Kingdom. In this case untruthfulness in relation to the answers on the applicant's United Kingdom visitor's visa application form has to be assessed not only as at the date of the completion of that form, namely 29 August 2005, but also when she presents at Heathrow airport on 12 January 2007.

[12] In relation to the question as to whether the applicant has been guilty of deception there has to be a failure to disclose facts which the applicant knew or ought to have known would be relevant in considering whether to grant the United Kingdom visitor's visa.

[13] The function of the court was described by Lord Fraser in *Khawaja v Secretary of State for the Home Department* [1984] AC 74 at page 96 in the following terms:-

> "The second general issue relates to the function of the courts and of this House in its judicial capacity when dealing with applications for judicial review in cases of this sort … On this question I agree with my noble and learned friends, Lord Bridge and Lord Scarman, that an immigration officer is only entitled to order the detention and removal of a person who has entered the country by virtue of an *ex facie* valid permission if the person is an illegal entrant. That is a *precedent fact* which has to be established. It is not enough that the immigration officer reasonably

> believes him to be an illegal entrant if the evidence does not justify his belief. Accordingly, the duty of the court must go beyond enquiring only whether he had reasonable grounds for his belief."

Factual background in relation to the applicant's asylum application in the Republic of Ireland

[14] On 30 June 2003 the applicant using the identity Toyin *Oladele* made an application for asylum in the Republic of Ireland. By letter dated 24 February 2004 the office of Refugee Applications Commissioner in the Republic notified the applicant that the Commissioner would not be recommending that she be declared a refugee under the Refugee Act 1996 (as amended). She was notified of her right of appeal against that recommendation. She was also informed that if she did not appeal the recommendation within ten working days then it would be forwarded to the Ministerial Decisions Unit, Department of Justice, Equality and Law Reform and the "Minister will then be in contact with you concerning your position in the State". The applicant did not appeal. A deportation order was subsequently issued on 21 July 2005 by the Minister for Justice and Law Reform. That decision was addressed to:

> "(a) Toyin Oyewumi *Oladele*
>
> (b) aka Toyin *Oyegbami*
>
> (c) aka Oyegbami *Oluwatoyin*."

The applicant was due to present at the Garda National Immigration Bureau for deportation on 4 August 2005 but failed to do so. She has been registered in the Republic of Ireland as an evader since that date.

[15] The applicant states that she did not appeal the recommendation of the Refugee Applications Commissioner as she was "worried that my actions may impinge on my daughter's status in the Republic of Ireland". She states that she left the Republic of Ireland "shortly after" (sic) receiving the letter dated 24 February 2004. She contends that she voluntarily left the State and was not aware of any removal orders against her in the Republic. That accordingly she left the Republic freely and under no coercion. She does not bring definition to what she means by "shortly after" receiving the letter dated 24 February 2004 but supports her contention that she did leave the Republic fairly promptly by producing a Nigerian driving licence issued by the authorities in Nigeria on 15 April 2004 and a receipt for a plot of land in Nigeria dated 30 January 2005. However it is clear that neither of those documents on their own establish that she was in Nigeria on either of those dates. Whether she had left the Republic of Ireland and was in Nigeria on either of those dates depends on whether I accept her evidence to that effect.

For reasons which I will explain I do not consider that the applicant is a credible witness. I consider it probable that she remained in the Republic of Ireland for considerably longer that she asserts; leaving prior to what she considered would have been her inevitable deportation from the Republic of Ireland and with knowledge that a deportation order would be made in that country.

The applicant's application for a five year United Kingdom visitor's visa

[16] The applicant applied for a five year United Kingdom visitor's visa by completing a form entitled "Non-Settlement Form (VAF1 2004)". That form was dated 29 August 2005 by the British High Commission in Abuja, Nigeria. On foot of that application a five year United Kingdom visitor's visa was issued on 29 August 2005.

The applicant's family name and the names and dates of birth of the applicant's children

[17] In the United Kingdom visitor's visa application form the applicant gave her name as Toyin Tewumi *Oyegbami*. She also stated that she had five children and she gave their full names and dates of birth as follows:-

(a) Dolapo *Oyegbami* – 23 April 1984.

(b) Tiwabayo *Oyegbami* – 27 June 1989.

(c) Yinica *Oyegbami* – 21 November 1995.

(d) Mayoyemi *Oyegbami* – 3 March 1999.

(e) Omoyeni *Oyegbami* – 5 August 2003.

The applicant was requested to but did not state the place of birth of any of her children.

[18] When making her application for asylum in the Republic of Ireland the applicant used the names Toyin *Oladele*. She also notified the Garda National Immigration Bureau of having four children which, together with their dates of birth, were as follows namely:-

(a) Dolapo *Oladele* – 1 October 1985.

(b) Olalekan *Oladele* – 18 May 1988.

(c) Siji *Oladele* – 28 February 1990.

(d) Titi *Oladele* – 3 November 1992.

[19] The Garda National Immigration Bureau state that the applicant's eldest daughter holds residency in the State by virtue of the fact that she has Irish born children. She lives in Kildare in the Republic of Ireland. For the purposes of her residency the eldest daughter's names are Dolapo Olajumoke *Oladele* and her date of birth is 1 October 1985.

[20] In the applicant's affidavit sworn on 5 April 2007 and filed in relation to these proceedings she provides an explanation as to why she travelled to Belfast. She stated that it was to meet her daughter Tolapo *Obisesan* and a friend of hers, Sade, both of whom live in Kildare and both of whom, it is stated, travelled to Belfast to meet her. The family name "*Obisesan*" is different from the family name given by the applicant on the United Kingdom visitor's visa application form of *Oyegbami*. It is also different from the family name of *Oladele* that the applicant used in the Republic of Ireland to claim refugee status. The marital status of the applicant's daughter in the Republic is unknown but Garda National Immigration Bureau record her name as Dolapo Olajumoke *Oladele*. The first name of Tolapo is different from the first name of Dolapo which was given by the applicant on the United Kingdom visitor's visa application form and in relation to her application for refugee status in the Republic of Ireland.

[21] The family name *Oladele* for the applicant and for each of her four children given to the Garda National Immigration Bureau in relation to her application for refugee status is different from the family name of *Oyegbami* for the applicant and for each of her five children on the applicant's United Kingdom visa application form. It is different from the family name of *Oluwatoyin* which is one of the family names on the deportation order in the Republic of Ireland. Furthermore it is also different from the family name given by the applicant for her daughter of *Obisesan* in her affidavit sworn on 5 April 2007. No explanation has been forthcoming from the applicant in any affidavit sworn by her or on her behalf in these proceedings in relation to the use of different family names for herself and for her children. No explanation could be suggested on her behalf by her counsel during his submissions. I have given consideration as to whether the applicant was using her maiden name but all the family names of *Oladele*, *Oyegbami*, *Oluwatoyin* and *Obisesan* are different from the applicant's maiden name of *Olabode*. It is apparent that the immigration authorities in the Republic of Ireland or in the United Kingdom or in both states have been given fundamentally false information as to the family name, and therefore the identities, of the applicant and at least four of her children. I consider that the applicant has been untruthful to one or other or both of the immigration authorities in the two states. In addressing the issue as to whether the applicant was untruthful to one or other or both of the immigration authorities in the two states I take into account the failure by the applicant to give an explanation in these

proceedings as to the use by her of different family names for herself and four of her children when dealing with the immigration authorities in the Republic of Ireland and the United Kingdom. I infer from the lack of any such explanation from the applicant in these proceedings that there is no valid explanation available to the applicant that would establish the truthfulness of the information contained in the United Kingdom visitor's visa application form. I also infer from the applicants decision not to appeal the recommendation of the Refugee Applications Commissioner that there was no valid explanation available to the applicant that would establish the truthfulness of the information provided to the immigration authorities in the Republic of Ireland. I consider that there is no explanation that is available to the applicant that would establish her truthfulness to either immigration authority. I conclude that the information provided on her United Kingdom visitor's visa application form as to her family name and as to the family name of all of her children was false to her knowledge and I also consider that the applicant was untruthful in that respect to the immigration authorities in the Republic of Ireland.

[22] In addition none of the children's first names as given to the Garda National Immigration Bureau and on the applicant's United Kingdom visitor's visa application form are the same except for the first name "Dolapo" for the applicant's first child. The first name for the applicant's first child is given in her affidavit sworn on 5 April 2007 as "Tolapo". Again no explanation has been forthcoming from the applicant in any affidavit sworn by her or on her behalf in these proceedings in relation to the different first names that she has given for her children. No explanation could be suggested on her behalf by her counsel during his submissions. I have given consideration as to whether the applicant provided her children's first names to the immigration authorities in the Republic of Ireland and their middle names in the United Kingdom visitor's visa application form or vice versa. However this explanation was not advanced on behalf of the applicant and it is apparent that it cannot be correct for at least the applicant's first child whose first name is given as "Dolapo" to the immigration authorities in both states. Her middle name is Olajumoke for the purposes of her residence in the Republic of Ireland. There is no reason why the applicant would have given middle names as opposed to first names and it is apparent that she did not do so in relation to her first child. Indeed there is no evidence that the other children have any middle names. I reject any such explanation. The differences between the applicant's children's first names as given by her, apart from the difference between Dolapo and Tolapo, are obvious and major. I conclude that the applicant has given fundamentally false information as to the first names, and therefore the identities, of her children when completing the United Kingdom visitor's visa application form.

[23] As can be seen none of the dates of birth notified by the applicant to the Garda National Immigration Bureau are the same as the dates of birth on

the applicant's United Kingdom visitor's visa application form dated 29 August 2005. Again no explanation has been forthcoming from the applicant in any affidavit sworn by her or on her behalf in these proceedings in relation to the different dates of birth that she has given for her children. No explanation could be suggested on her behalf by her counsel during his submissions. I have considered whether the differences between the respective dates of birth are minor or could be explained on some innocent basis. In relation to each of the respective dates of birth of the applicant's children it can be observed that all the days are different except in relation to her fourth child. All the months are different. All the years are different. In respect of her fourth child there is the co incidence that the applicant has stated that she was born on the third of the month but the month of birth is given as respectively November and March and the year of birth is given respectively as 1992 and 1999. It can also be observed that the degree of difference in relation to each date of birth in respect of day, month and year is a major difference. I conclude that the applicant has again given fundamentally false information as to the dates of birth of her children when completing the United Kingdom visitor's visa application form. That such false information goes to a basic and important method of identifying the applicant's children.

[24] In conclusion in relation to the family name of the applicant and the names and dates of birth of her children the only details that are the same when comparing what the applicant informed the Garda National Immigration Bureau and the information on her application for a United Kingdom visitor's visa is the first name of her first child and the co incidence that the applicant has stated that her fourth child was born on the third of the month. I hold that the applicant is not a credible witness. I conclude that the applicant has provided false information in respect of her and her children's identity on her United Kingdom visitor's visa application form and that it was relevant for the entry clearance officer to know her and her children's correct identities. I consider that it has been established to the requisite standard that the applicant obtained leave to enter by fraud and that she is an illegal entrant.

Information provided by the applicant in relation to the deportation order in the Republic of Ireland

[25] Question 4.13 on the UK visitors visa application form was in the following terms:

> "Have you ever been refused entry to, deported from,
> or otherwise required to leave, another country?"

The applicant ticked the "no" box. At the end of Section 4 there was a space left in which the applicant could give details if she had answered question

4.13 "yes". The visa application form was dated 29 August 2005. It is recollected that by that date the applicant had received a letter dated 24 February 2004 from the office of the Refugee Applications Commissioner in the Republic of Ireland informing her that the Commissioner was recommending that she should not be declared a refugee and concluding that if she did not appeal within ten working days then the recommendation will be sent to the Ministerial Decisions Unit and the Minister "will then be in contact with you concerning your position in this State". Also by that date a deportation order had in fact been made on 21 July 2005.

[26] The applicant contends that she was unaware of the existence of the deportation order made on 21 July 2005. She explains that she did not appeal the recommendation of the Refugee Applications Commissioner as she was worried that her actions might impinge on her daughter's status in the Republic of Ireland. That she left the Republic of Ireland "shortly after" receiving the letter dated 24 February 2004. Accordingly that she left the Republic of Ireland freely and under no coercion. The applicant contends that the answer "no" to question 4.13 was a truthful answer.

[27] I have indicated that the major differences in relation to the information that the applicant has provided to the immigration authorities in two states as to her family name and the names and dates of birth of her children has lead me to conclude that the applicant is not a credible witness. I do not accept that the applicant left "shortly after" receiving the letter dated 24 February 2004 whatever that may mean. I consider that the applicant left at a date considerably later than she implies. More importantly I consider that the applicant knew of the deportation order in the sense that it was an inevitable consequence in her circumstances given that she did not appeal the recommendation of the Refugee Applications Commissioner in the Republic of Ireland. The applicant's decision not to appeal the recommendation of the Refugee Applications Commissioner in the Republic of Ireland was motivated not by a concern that a misunderstanding might arise which would impinge on her daughter's status but was rather a decision prompted by the fact that further enquiries would reveal the applicant's untruthfulness. In short she left to avoid further investigation which would have been adverse to her and her daughter's interests in that it would have revealed deceit on her part. She had no entitlement to remain in the Republic of Ireland if she decided not to appeal. Against that background she knew that a deportation order would be made in the Republic of Ireland at some date. I consider that when the applicant completed the United Kingdom visitor's visa application form on 29 August 2005, some one year and six months after the letter dated 24 February 2004 and also when she presented her passport and visa on arrival at Heathrow airport on 12 January 2007 she assumed that a deportation order had already been made against her in the Republic of Ireland. I conclude that the answer "No" to that part of the question "Have you ever been … deported … from another country" was untruthful in that

she would have assumed at the date that she completed the United Kingdom visitor's visa application form and also when she arrived at Heathrow airport on 12 January 2007, that there was in existence a deportation order in the Republic of Ireland in respect of her.

[28] Question 4.13 not only asks whether the applicant has ever been deported from another country but also asks whether she has ever been "otherwise required to leave another country?" In effect it was contended on behalf of the applicant that for the applicant to have been required to leave the Republic of Ireland she would have had to have been asked or requested to leave that country. That as she was never asked by the immigration authorities in the Republic of Ireland to leave the answer "No" to that part of question 4.13 on the applicant's United Kingdom visitor's visa application form was truthful. I consider that that part of question 4.13 was wide enough to encompass a requirement to leave as being under a necessity to leave, but limited by the context of the question as being under a necessity to leave as a result of action taken by the immigration authorities of another country. In the applicant's case there was a necessity to leave the Republic of Ireland precipitated purely by the actions of the immigration authorities in that country. There was a recommendation that she should not be declared a refugee in the Republic of Ireland. She did not appeal that decision in circumstances where she was not entitled to remain in that country if she failed to appeal successfully. She wished to avoid further investigation which would have been adverse to her and her daughter's interests in that it would have revealed deceit on her part. The applicant was under a necessity to leave the Republic of Ireland and she was accordingly required to leave that other country. Accordingly I consider the answer "No" to that part of question 4.13 was untruthful.

[29] I consider that the applicant has provided false information in respect of her answer to question 4.13 of her United Kingdom visitor's visa application form and that it was relevant for the entry clearance officer to know that she had been deported from and required to leave the Republic of Ireland. I consider that it has been established to the requisite standard that the applicant obtained leave to enter by fraud and that she is an illegal entrant.

Exercise of the discretion

[30] One of the grounds on which the applicant has sought to impugn the decision to declare her an illegal entrant is that the respondent has failed to show that the Immigration Officers had exercised their discretion sufficiently or at all before deciding to determine the applicant as an illegal entrant. The same ground was raised before Mr Justice Gillen in *The matter of an application by Chukwuma Okaro for Judicial Review* [2007] NIQB 21. In that case Mr Justice

Gillen found as a fact that the immigration officers had exercised their discretion in accordance with the policy. I make a similar finding of fact in this case and adopt his reasoning as set out at paragraphs [10] – [11] of his judgment.

Conclusion

[31] I dismiss the application.