



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: AA/01247/2014**

**THE IMMIGRATION ACTS**

**Heard at City Centre Tower**

**Decision & Reasons**

**On 12 November 2015**

**Promulgated**

**On 12 February 2016**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**O A**

**(ANONYMITY DIRECTION MADE)**

**Appellant**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondent**

**Representation:**

For the Appellant: Ms J Loughran, Counsel instructed by TRP solicitors  
For the Respondent: Mr D Mills, Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I make this order because the Appellant is a victim of trafficking to service the "sex trade". She has suffered considerable physical and emotional abuse. I see no legitimate public interest in knowing her identity.
2. This is an appeal by a citizen of Nigeria against a decision of the First-tier Tribunal dismissing on refugee grounds but allowing on human rights grounds an appeal against the decision of the Secretary of State on 10

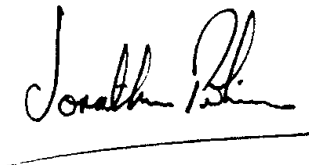
February 2014 to refuse her asylum and to remove her from the United Kingdom.

3. The facts of the case are not controversial and are well rehearsed in the First-tier Tribunal's decision. I do not see any point in setting them out in any great detail. Suffice it to say that this appellant has been the victim of appalling ill-treatment and exploitation following the death of her father when she was 13 years old. There is medical evidence showing that her body has been abused by her being forced into prostitution. The reason that the appeal was allowed on human rights grounds is that the appellant's mental health is so broken that the First-tier Tribunal Judge was persuaded that she could not be returned to Nigeria because she was just too poorly. It is right to say that that finding was made in very emphatic terms and although the Secretary of State sought permission to challenge it permission was refused on that point was refused by the First-tier Tribunal and the application for permission was not renewed to the Upper Tribunal.
4. The challenge to the Upper Tribunal is essentially on two limbs. The first is that the First-tier Tribunal Judge misdirected herself in deciding what amounts to trafficking and did not apply the broader and perhaps less precise definition which is favoured by the Council of Europe Convention on Action against Trafficking in Human Beings. Had she applied that she would have been satisfied that as well as being a victim of exploitation the appellant was in fact a victim of trafficking. Mr Mills has considered that point carefully and he conceded that that is right.
5. The second point is that the finding of the Tribunal on an earlier occasion was that the appellant would be a refugee were it not for the fact that she could internally relocate. There is now more evidence about her mental state. It led to the appeal being allowed on human rights grounds because she is too poorly. It follows from that that she cannot relocate she cannot look after herself at all. It is the appellant's contention, which Mr Mills again has considered and conceded is right, that in the circumstances internal relocation is not an option. It follows that she must be a refugee. Internal relocation is only an answer to a refugee claim if it is reasonable. If, as is the case here, the appellant is too ill to relocate then she cannot reasonably be expected to relocate and so she is a refugee.
6. It is right to add that this case was carefully pleaded in very detailed grounds which Mr Mills was able to consider and which led to him making the concessions that he did properly. For some reason when the file was before the Presenting Officer considering a Rule 24 response all of the necessary information was not available. If it had been it may be the public purse would have been spared the cost of a hearing. That is something that those who instruct Presenting Officers to prepare a Rule 24 notices might want to consider.
7. I am grateful to Mr Mills for what I consider to be a perfectly professional and realistic response.
8. In the circumstances Ms Loughran had nothing to say.

**Notice of Decision**

9. The First-tier Tribunal's decision is set aside and I substitute a decision allowing the appeal on Refugee Convention grounds. It is probably only a technicality but it remains allowed on Article 3 grounds as well.

Signed

A handwritten signature in black ink, appearing to read 'Jonathan Perkins', written over a horizontal line.

Jonathan Perkins  
Judge of the Upper Tribunal

Dated 17  
December 2015