

Case: European Court of Human Rights

case name | (year) | volume | report abbreviation | first page

e.g. *Omojudi v UK* (2010) 51 EHRR 10

Use this format for both a footnote and a bibliography.

Page 7

***289 Omojudi v United Kingdom**
Application No. 1820/08
Before the European Court of Human Rights
24 November 2009
(2010) 51 E.H.R.R. 10

The President, Judge Garlicki; Judges Bratza, Bonello, Mijović, Hirvelä, Bianku and Vutinić:
November 24, 2009

Deportation; Indefinite leave to remain; Right to respect for private and family life; Sex offenders

H1 The applicant was a Nigerian national. In 1982, when aged 22, he was granted leave to enter the United Kingdom as a student. In 1983 he was joined by his partner, who was also a Nigerian national. They married in 1987 and had three children, born in 1986, 1991 and 1992, all of whom were British citizens and the eldest of which himself had a daughter. In 1989, the applicant, was convicted of, inter alia, theft and conspiracy to defraud for which he was sentenced to four years' imprisonment. In 2005 both the applicant and his wife were granted indefinite leave to remain in the United Kingdom. In November 2006 the applicant was convicted of sexual assault, sentenced to 15 months' imprisonment and placed on the sex offenders register. The judge did not recommend deportation. In the period between the sexual assault and his conviction, the applicant also committed a driving offence, as the result of which he was banned from driving for three years. A deportation order was made against the applicant on March 31, 2007 on the basis that it was necessary for the prevention of disorder and crime and for the protection of health and morals. The applicant completed his prison sentence on June 1, 2007 and he was thereafter held in immigration detention until June 25, 2007 when he was granted bail. On September 14, 2007, he was again placed in immigration detention. He was deported to Nigeria on April 27, 2008. Starting in early 2008, the applicant and his lawyers regularly requested a copy of the risk-assessment report from the Probation Service. It was eventually supplied two days before the applicant's deportation. Relying upon art.8, the applicant claimed that his deportation had constituted a breach of his right to respect for family life. Relying upon art.14, he further complained that the delay in disclosure of the risk-assessment report had interfered with his right to effectively present his case. He claimed just satisfaction under art.41.

H2 Held, unanimously:

- (1) that the complaint under art.8 was admissible and the remainder of the application inadmissible;
- (2) that there had been a violation of art.8; *290
- (3) that the respondent State was to pay the applicant compensation for non-pecuniary damage, as well as a sum in respect of costs and expenses;
- (4) that the remainder of the applicant's claim for just satisfaction be dismissed.

1. Right to respect for private and family life: deportation; settled migrant; "necessary in a democratic society" (article 8)

H3 (a) The applicant's deportation had interfered with his family life as far as his relationship with his wife and two youngest children was concerned. Given the Government's concession as to the existence of family life in that regard, it was not necessary to decide whether the close bond which the applicant had with his eldest son and his granddaughter was sufficient to give rise to family life between them. In any case, given that art.8 covered aspects of an individual's social