



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal no: **OA 08632-12**

THE IMMIGRATION ACTS

At **Field House**

Decision signed:

on

25.10.2013

sent out: **30.10.2013**

Before:

Upper Tribunal Judge
John FREEMAN

Between:

OLADUNJOYE

appellant

and

Secretary of State for the Home Department

respondent

DETERMINATION AND REASONS

This appellant was granted permission to appeal the decision of the First-tier Tribunal as follows:

1. The individual points on which the decision of the judge who refused permission in the First-tier Tribunal are seriously challenged both concern the hearing judge's findings at paragraphs 20 - 24. The order of events put forward or accepted on behalf of the appellant is as follows:

14 January 2006 sponsor marries first husband (H1)

November H1 arrives in UK

19 January 2007 appellant issued with UK visa as cousin of sponsor

February appellant arrives in UK

March appellant and sponsor form relationship: appellant goes on to overstay his visa

February 2008 appellant arrives back in UK but refused leave

to enter

2 March 2012 appellant refused visa to join sponsor as her husband

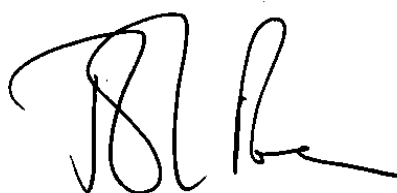
4 June 2013 appellant marries sponsor

2. The judge did not believe the account the appellant and the sponsor had given of their history, and so dismissed the appeal. The specific points on which the judge's findings are challenged (as opposed to the appellant's case simply being re-asserted) are these:
 - (a) the sponsor married H1 in January, not June 2006 (as the judge said at paragraph 5); and
 - (b) the judge was wrong to say, at paragraph 23 that "The Sponsor has sponsored two different husbands within a short period of time", when she did not sponsor the appellant as her husband till 2012.
3. I do not think anything turns on (a): as for (b), the appellant's case is that he came over in 2007 as the sponsor's cousin, and only formed a relationship with her afterwards. It did not of course follow that this version had to be believed, and the two of them have a good deal of explaining to do. If the judge had found that what the sponsor did in 2007 was in effect deliberately to call a second husband for herself, only a year after marrying the first, then she would have been entitled, giving proper reasons, to say so, and to draw the necessary conclusions.
4. However, I do not think the judge confronted this issue directly, as she needed to. Unless there is an objection within the time set out in the attached letter, there will be a fresh hearing before another first-tier judge.

That decision was sent to the parties on 14 July, with copies of a notice requiring a response by 28 July. There has been none from the Home Office, and the appellant's solicitors have written to consent; so I shall make the order as I said.

Appeal allowed

Fresh hearing at Taylor House, not before Judge Rabin

A handwritten signature in black ink, appearing to be 'JLR', written in a cursive style.

(a judge of the Upper
Tribunal)