

**Upper Tribunal  
(Immigration and  
Asylum Chamber)Appeal**  
Number: IA/51355/2013



**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 24 June 2014**

**Determination**

**Promulgated**

**On 4 August 2014**

**Before  
DEPUTY JUDGE DRABU CBE**

**Between**

**MR FREDRICK ASIEDU**  
(ANONYMITY DIRECTION NOT MADE)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the appellant: In person

For the Respondent: Mr I Jarvis, Senior Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a national of Ghana. He was born on 10 May 1987. Upon refusal of the respondent to grant his application for a residence card on the basis of his proxy marriage to an EEA national exercising treaty rights, the appellant appealed. The appeal was determined by Judge Grimmett at the First Tier Tribunal on 18 February 2014. At the request of the appellant the appeal was determined on papers and in the determination promulgated on 20 February 2014, Judge Grimmett gave reasons for decision to dismiss the appeal.
2. The appellant sought and was granted permission to appeal to the Upper Tribunal on 12 March 2014 by Judge JM Holmes, a Judge of the First Tier Tribunal. The Judge saw no merit in the ground challenging the finding of Judge Grimmett on validity of marriage as a proxy marriage, the Judge gave permission to appeal because he took the view that Judge Grimmett had not addressed the argument advanced on behalf of the appellant that the relationship of the appellant with the sponsor was that of a cohabiting couple and that it should have been considered under the EEA Regulations and pursuant to Article 8 appeal.

3. Before me the appellant was represented by Ms N C Udeagbaja of C W Law Solicitors. She did not appear to understand the remit of the appeal before the Upper Tribunal or that it was not open to her to argue the merits of the case before establishing that the decision of the First Tier Tribunal was in material error of law. However after some discussion she argued that the decision of the First Tier was in material error of law for failing to accept that the marriage was valid as its validity was certified by the marriage certificate by the competent authority in Ghana. Her attention was drawn to the decision granting permission to appeal to the Upper Tribunal and the decisions of the Upper Tribunal in Kareem (Proxy marriages – EU law) [2014] UKUT 24 (IAC). She was invited to persuade me that the said decision upon which the First Tier Judges Grimmatt and Holmes had placed reliance was wrong on principles of law, but she was unable to offer any arguments except that the marriage certificate in itself proved the validity of the marriage.
4. Mr Jarvis representing the respondent invited me to find that the determination of Judge Grimmatt was sound in law and on facts and that the grounds advanced did not establish a material error of law in the determination.
5. I have looked at the determination of Judge Grimmatt with care and I find that her decision to follow the legal principles set out by the decision of the Upper Tribunal in Kareem was sound and my conclusion accords with the view of Judge Holmes who granted permission to appeal in this case. Before me, no evidence was drawn to my attention and no argument was advanced that in failing to address the durability of the relationship between the appellant and his sponsor Judge Grimmatt had erred in law. There was no evidence adduced before Judge Grimmatt on this score and she was therefore correct in her decision not to “address” it as there was nothing to address.. Similarly as far as Article 8 engagement is concerned, Judge Grimmatt did no err in law as again besides bland assertion that Article 8 was engaged no cogent evidence to support that assertion was adduced. Neither the appellant nor the sponsor gave evidence before Judge Grimmatt. No documentary evidence of relevance to this issue was produced. Even if the Judge had looked at the Article claim in greater depth than the Judge did, dismissal of the claim was inevitable as the appellant did not meet the requirements of the Immigration Rules and Section 117 of the 2002 Act would come into play.
6. The decision of Judge Grimmatt to dismiss the appellant’s appeal must therefore stand.

### **ANONYMITY DIRECTION**

None has been sought and circumstances of the case do not warrant such direction.

Judge Drabu

Judge of the First Tier Tribunal sitting as Deputy Judge of the Upper  
Tribunal  
26 July 2014