



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

Appeal Number: IA/06586/2014

THE IMMIGRATION ACTS

Heard at Manchester

On 12th January 2015

Determination

Promulgated

On 30th January 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

**MR ABDULBASIT OLAWALE HASSAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No-one attended

For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant Mr Abdulbasit Olawale Hassan date of birth 5th November 1989 is a citizen of Nigeria. The Appellant made application to remain in the United Kingdom as the spouse of a person present and settled in the

United Kingdom namely a British citizen called Ms Chloe Delaney. By decision taken on 11th December 2013 the Respondent refused the Appellant further leave to remain in the United Kingdom and also by the same notice gave notice that she intended to remove the Appellant from the United Kingdom under Section 47 of the 2006 Act.

2. The Appellant appealed those decisions. By decision promulgated on 18th July 2014 the Appellant's appeal was dismissed by the First-tier Tribunal. The Appellant lodged an appeal to the Upper Tribunal against the decision.
3. I have considered whether or not it is necessary to make an anonymity direction in the present proceedings. Taking account of all the circumstances I do not consider it necessary to make an anonymity direction.
4. No-one attended on behalf of the Appellant. Notice of hearing had been sent out to the last address notified to the Tribunal for service of documents. That notice had gone out on 28th November 2014. No other address had been provided to the Tribunal for service of documents. The Appellant had no representative. A McKenzie friend had attended and assisted the Appellant at the hearing before the First-tier Tribunal Judge. However such a person is not a representative for the purposes of the service of documents. The notice of hearing had gone out in accordance with the Procedure Rules. There was no explanation for the non-attendance of the Appellant. I therefore determined that it was just and proper to proceed with the hearing in the absence of the Appellant.
5. This is an appeal by the Appellant against the determination of First-tier Tribunal Judge Manuel promulgated on 18th July 2014. Permission to appeal was granted on 1st October 2014. The permission indicates that all the Grounds of Appeal are arguable.
6. The Grounds of Appeal extend to some four pages. The first Ground of Appeal indicates that the judge erred in law in finding that the Appellant was not in a genuine and subsisting relationship as required by E-LTRP.1.7 and that the parties did not have the intention to live together permanently in the UK as required by E-LTRP.1.10.
7. There is then a recitation of the evidence that was put before the Tribunal and the fact that there is Home Office guidance as to how to approach the issue with regard to proof of a genuine and subsisting relationship. It is suggested that bills, bank statements and the like are sufficient for the purposes of the Home Office guidance and that accordingly there was evidence before the judge upon which the judge should have found that there was a genuine relationship. Reliance is also placed upon the case of GA (subsisting marriage) Ghana [2006] UKAIT 46. It is suggested that that is authority for the fact that subsisting marriage is one which does not merely formally continue. It is suggested that the judge's conclusions in paragraph 25 are inconsistent with the case of GA. The matter is pursued

further and it is alleged that the judge has failed to take account of the evidence that was presented before her. It is suggested that the judge has failed to take account of the fact that the parties intended to live together in accommodation owned by a Mr Bredu. It is suggested that there was a valid explanation as to why Miss Delaney continued to attend at surgeries in Runcorn when she was supposedly living in Salford.

8. In essence the Ground of Appeal is nothing more than a disagreement with the findings of fact made by the judge. The judge has carefully considered all of the evidence that was put forward. The judge has carefully analysed the evidence presented and in her findings from paragraph 7 onwards has given valid reasons for finding that this was not a genuine and subsisting relationship. In paragraph 20 the judge noted that there were no joint bills or bank statements and the latest payslips for the sponsor gave an address for the sponsor in Runcorn.
9. The ground is nothing more than a disagreement with the findings of fact made. The judge was entitled to make the findings on the basis of the evidence presented and has given justifiable reasons for the conclusion that this was not a genuine and subsisting marriage.
10. The second Ground of Appeal alleges that the judge did not give reasons for the conclusion that the Appellant did not satisfy paragraph EX.1(b). The judge clearly at paragraph 30 points out that paragraph EX.1(b) requires also that the parties be in a genuine and subsisting relationship. The judge had already found that there was no genuine and subsisting relationship and accordingly found that because of that EX 1(b) did not apply. That was a finding of fact that the judge was entitled to make on the evidence presented.
11. The Appellant had come to the United Kingdom as a student in 2007. The only time that he had left the United Kingdom is for three days in December 2010 to go to the Netherlands. The judge from paragraph 41 considered very carefully whether or not the Appellant continued to have ties with Nigeria. The judge concluded that the Appellant did continue to have ties. The Appellant had produced email correspondence to show that he had family members in Nigeria and that he continued to be in contact with those family members. The judge was entitled therefore to conclude as she did in paragraphs 41 to 45 that the Appellant continued to have family and other ties.
12. Those were findings of fact that the judge was entitled to make. The judge having made those findings of fact concluded that the Appellant did not meet the requirements of paragraph 276ADE(1)(vi). Again the judge has fully justified the decision on the evidence presented.
13. The final ground which has been asserted suggests that the judge disclosed bias in dealing with the case. The Appellant has not attended to substantiate those allegations. The allegations are such that they are very serious and have to be taken seriously by the Tribunal. However it is

suggested that the judge did make the point that the Appellant could have gone back to his home country to make an application for entry clearance as he had no leave. It is suggested that that is an insinuation that an in-country application was in some way wrong. I do not accept that at all.

14. The Appellant has not attended to substantiate the allegation of bias. The allegation is merely that the judge is pointing out that the Appellant had no leave and was entitled to point out that the Appellant had no leave and that it would be possible for the Appellant to go back to his home country to make application to enter the United Kingdom lawfully. The Appellant could have returned home; made application; and substantiated his relationship had he sought to do so but he had not. The judge was entitled to take that fact into account in assessing the circumstances. The allegation of bias is in the circumstances not made out and is totally unwarranted in all the circumstances.
15. The Grounds of Appeal are nothing more than a disagreement with the findings of fact. They seek to re-argue issues raised before the judge which the judge has dealt with. The judge has clearly considered all the evidence. The judge has given valid reasons for coming to the conclusions that she did. The judge was entitled to make the findings that she did on the facts as presented. In the circumstances there is no arguable error of law within the determination.

Notice of Decision

I uphold the decision to dismiss this appeal on all grounds.

No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge McClure