



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

Appeal Number: IA/17730/2014

**THE IMMIGRATION ACTS**

**Heard at Bennett House**

**Determination**

**On 13 May 2015**

**Promulgated**

**On 26 May 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**IRFAN HAIDER**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: None

For the Respondent: Mr McVeety (Home Office Presenting Officer)

**DECISION AND REASONS**

1. The appellant entered the UK as a student on 26 September 2012. This leave expired on 30 January 2014 and he made an application to extend his leave on 28 January 2014. In a decision dated 31 March 2014 the SSHD refused to vary the appellant's leave and the appellant appealed to the First-tier Tribunal.

**Procedural history**

2. This is a matter that has previously been considered by First-tier Tribunal Judge Smith having heard from the appellant at a hearing on

23 September 2014. The Judge dismissed the appellant's appeal under the Immigration Rules and Article 8.

3. Permission to appeal against this decision was granted by Judge Scott Baker on 20 March 2015 on the basis that the Judge arguably failed to engage with available evidence from the appellant and Nottingham Business School
4. The matter now comes before me to determine whether or not the decision of the First-tier Tribunal contains a material error of law.

### **Hearing**

5. The appellant did not attend the hearing and was not represented. Mr McVeety asked me to dismiss the appeal.
6. Judge Smith clearly describes the appellant as having confirmed at the hearing that he has completed all the requirements of the course and has qualified and the only basis for his application to remain is in order to attend the graduation [10]. I have checked the record of proceedings. This is entirely consistent with the decision in that it appears that the appellant's only concern was to be able to attend his graduation.
7. The 2014 documentation referred to by Judge Scott Baker when granting permission relate to outdated matters. The appellant clearly confirmed the only reason for requesting an extension of his stay was to attend his graduation. The Judge was entitled to consider the issue relied upon by the appellant at the hearing as the basis for his argument that he should be permitted to remain in the UK under Article 8. It is very clear that whilst the appellant relied upon other matters in the past relevant to illness and needing further time to pass his course, these had been resolved. Indeed the Judge was aware of these other matters and confirmed that the appellant now 'simply wishes to attend his graduation ceremony' [9].
8. The Judge was entitled to address this issue only and to find that the decision not to vary leave did not constitute a breach of the Immigration Rules or Article 8. Any error in the Judge's approach to Article 8 is not a material one. On the most generous application of Article 8 to this appellant's circumstances, the appeal was bound to fail.

### **Decision**

9. I do not find that the decision of the First-tier Tribunal contains an error of law.
10. I do not set aside the decision of the First-tier Tribunal.

Signed:

Ms M. Plimmer

Deputy Judge of the Upper Tribunal

Date: 15 May 2015