



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/46725/2013

**THE IMMIGRATION ACTS**

Heard at Field House

Determination Promulgated

On 22<sup>nd</sup> April 2015

On 3<sup>rd</sup> June 2015

Before

LORD BANNATYNE  
DEPUTY UPPER TRIBUNAL JUDGE FRANCES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MR TOCHUKWU ROY AGADA  
(ANONYMITY DIRECTION NOT MADE)

Respondent

**Representation:**

For the Appellant: Ms A Everett, Home Office Presenting Officer

For the Respondent: Mr S Nwaekwu, Moorehouse Solicitors

**DECISION AND REASONS**

1. Although this appeal is brought by the Secretary of State for the Home Department we shall refer to the parties as in the First-tier Tribunal. The Appellant is a citizen of Nigeria born on 14<sup>th</sup> July 1983. His appeal against the Respondent's decision to refuse indefinite leave to remain as the spouse of a British citizen, Tyra Kelly Denise Rolle, the Sponsor, was allowed under the Immigration Rules by First-tier Tribunal Judge Cohen on 1<sup>st</sup> December 2014.
2. The Appellant came to the UK on 7<sup>th</sup> September 2008 as a student with leave until 30<sup>th</sup> June 2011. On 27<sup>th</sup> June he applied for leave to remain as the spouse of a person

settled in the UK. The Appellant was granted leave to remain from 29<sup>th</sup> July 2011 until 29<sup>th</sup> July 2013. On 29<sup>th</sup> June 2013 he applied for indefinite leave to remain under paragraph 287 of the Immigration Rules. This was refused on 31<sup>st</sup> October 2013 on the basis that the Appellant and Sponsor had given inconsistent accounts in interview in relation to the tenancy agreement, when they met, what they did at the weekend, the name of the Sponsor's father and the Sponsor's immediate family. The Respondent was not satisfied that the Appellant and the Sponsor were in a genuine and subsisting relationship.

3. At the hearing before the First-tier Tribunal the Appellant provided witness statements from family and friends, utility bills, bank statements and additional documentation. The judge found the Appellant to be a reluctant witness but the Appellant and the Sponsor gave consistent answers to the questions he asked. The judge found that the Appellant and the Sponsor were consistent in 58 out of 63 questions asked in interview. He acknowledged that some answers were significantly discrepant but found that the parties displayed a certain vagueness which was intrinsic in their nature and characters. The judge found that the parties were naïve and the small number of discrepancies in interview were not significant enough to damage their credibility in the light of the totality of the evidence.
4. The Respondent appealed on the grounds that the judge had failed to provide adequate reasons for finding that the relationship was genuine and subsisting given the judge's finding that some of the responses given by the Appellant and the Sponsor during interview were significantly discrepant and there was insufficient documentary evidence to confirm the relationship. In submissions Ms Everett relied on the grounds of appeal and submitted that, in view of those significant discrepancies in interview, the reasons given in the decision were inadequate. She specifically referred to questions 38 and 39 of the interview record in which the Appellant stated he had met the Sponsor's father but the Sponsor stated that they had never met.
5. After some discussion it was decided that it was not necessary to hear from the Appellant's representative. Our decision is as follows. The Appellant gave explanations for the discrepancies in interview in his witness statement and he adopted his witness statement as part of his evidence-in-chief. He was cross-examined and he answered some questions from the judge. The Sponsor gave answers consistent with the Appellant in oral evidence. The judge took into account documentary evidence which indicated that the Appellant and the Sponsor had been living at the same address for some time. There were insurance and life insurance policies in their names and the judge took into account the witness statements from friends and relatives.
6. We find that the judge assessed the evidence as a whole and considered the discrepancies in interview in the light of all the evidence. There was no error of law in the judge's approach and his findings were open to him on the evidence before him. Although the judge did not specifically deal with each discrepancy and explanation for it, stating whether he accepted or rejected it, it is clear from his decision that he considered those discrepancies and the explanations. We find that

the judge's reasons at paragraphs 15 to 20 of the decision were adequate and there was no material error of law. The decision dated 1<sup>st</sup> December 2014 shall stand and the Secretary of State's appeal is dismissed.

**Notice of Decision**

The appeal is dismissed

No anonymity direction is made.

Signed

Date 1<sup>st</sup> June 2015

Deputy Upper Tribunal Judge Frances