



IAC-FH-AR-V1

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

Appeal Number: IA/23672/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 December 2015**

**Decision & Reasons Promulgated  
On 14 January 2016**

**Before**

**UPPER TRIBUNAL JUDGE FINCH**

**Between**

**HASSAN TESLIM ADIGUN HOSSEIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: In person

For the Respondent: Mr C Avery, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, who was born on 5 May 1982, is a national of Nigeria. He married his wife in Nigeria in 2008 but his account is that she could not cope with Nigeria and left the country. He then entered the United Kingdom, as a student, on 10 February 2010 but three or four months later became ill and stopped studying and took about a year to recover. During that time he got back in contact and resumed his relationship with his wife. It was around this time that his wife had one of her children taken into care by the London Borough of Islington.

2. The Appellant applied for leave to remain by letter on 7 April 2014. The letter sent by those then instructed by him was far from competent. It appears it had certain documents attached to it which are not in the Tribunal file but are in the Respondent's possession. His application was refused on 15 May 2014 and he appealed on 30 May 2014. The grounds were general in nature but did assert that the Respondent had failed to consider all the evidence, which had been submitted.
3. The appeal was initially due to be heard at York House on 12 December 2014 but it was adjourned the day before. I am presuming of the courts own motion but that is not clear from the papers. The appeal then came before First-tier Tribunal Judge Tynan on 12 June 2015. Neither the Appellant nor his solicitor attended. During the current hearing the Appellant asserted that his solicitor had told him that he did not need to attend and that he was going to appear on his behalf.
4. The appeal was dismissed by First-tier Tribunal Judge Tynan on 3 July 2015. It is a very short decision, which just rehearses the history of the application and then states at paragraph 5 that:

"Mr Archie, the Home Office Presenting Officer, invited me to dismiss the appeal. I first read the grounds of appeal and the original application for leave to remain in the United Kingdom. They are both poorly drafted documents. As noted already, the application contains only very limited information in support of the Appellant's application."
5. It is not clear to me whether the Respondent had received the documents which were referred to in the letter of application and why they were not before the Tribunal. They were certainly not in the Tribunal's file.
6. The First-tier Tribunal Judge went on to state that: "the grounds of appeal comprise nothing more than a pro forma list of grounds and do not relate to the facts of the case."
7. At paragraph 6, he also stated that:

"... there was no explanation for their non-attendance. Having considered the application and the grounds of appeal I have decided that the appeal should be dismissed."
8. I accept that the First-tier Tribunal Judge had very little in his file but I am concerned that this is a human rights appeal. I find that , at the very least, the First-tier Tribunal Judge should have addressed the issues raised in the letter, including the fact that the Appellant's wife was living here, that her child had been removed from her care and that he needed to support her. The letter of application had also referred to a number of documents being attached and, if the First-tier Tribunal Judge did not have those documents in his file, he should at least have tried to discover where they were and why they were not in the file.
9. Therefore I find that there were error of law in the First-tier Tribunal Judge's decision, In particular, the totality of the evidence was not

addressed and the Appellant's case was not treated with sufficient procedural fairness.

10. I have also shown the Respondent documents sent [to] the Tribunal in response to directions given by the Tribunal, which the appellant says were documents which were given to his solicitors and which he believed had been submitted. These documents indicate that the Appellant's wife is suffering from a number of conditions.

### **Notice of Decision**

11. I find that First-tier Tribunal Judge Tynan's decision contained errors of law and cannot stand.

### **Directions**

12. The appeal is to be remitted to the First-tier Tribunal to be heard *de novo* by a First-tier Tribunal Judge other than First-tier Tribunal Judge Tynan.

Signed

Date: 8 January 2016

Nadine Finch  
Upper Tribunal Judge Finch