



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

Appeal Numbers: HU/11241/2016

THE IMMIGRATION ACTS

**Heard at Manchester
On November 22, 2017**

**Decision & Reasons
Promulgated
On November 23, 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR FRANCIS CHINEDU ONYELA
(NO ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr McVeetie, Senior Home Office Presenting Officer

For the Respondent: Unrepresented

DECISION AND REASONS

1. I do not make an anonymity direction in this matter.
2. The respondent in these proceedings was the appellant before the First-tier Tribunal. From hereon I have referred to the parties as they were in the First-tier Tribunal so that, for example, reference to the respondent is a reference to the Secretary of State for the Home Department.
3. The appellant is a citizen of Nigeria and on April 15, 2015 he requested a reconsideration of a decision, taken by the respondent to refuse his

application for leave to remain on human rights grounds. The respondent considered the application but refused it on April 20, 2016.

4. The appellant appealed that decision on May 6, 2017 and the appeal came before Judge of the First-tier Tribunal M Davies on February 28, 2017. In a decision promulgated on March 7, 2017 Judge Davies allowed the appeal to the extent that he remitted the decision back to the respondent for not being in accordance with the law.
5. The respondent appealed that decision on March 14, 2017 on the basis that Paragraph 37 of Schedule 9 to the Immigration Act 2014 repealed sections 87 of the Nationality, Immigration and Asylum Act 2002. That section had previously enabled a Judge to remit a decision back to the respondent for not being in accordance with the law. Judge of the First-tier Tribunal Bird found an arguable error in law on September 8, 2017 and the matter was listed before me today.
6. The appellant accepted the Judge had erred for the reasons given by the respondent in her grounds of appeal as set out above. I concurred with the grounds of appeal.
7. I told the appellant I would remit the case back to Judge of the First-tier Tribunal M Davies for a further hearing in the First-tier Tribunal in light of Part 3 Section 7.1 to 7.3 of the Practice Statement and that the appellant should provide statements from both himself and the mother of their child along with any other evidence he felt would assist his case.
8. Unusually I direct that the case be re-listed before Judge Davies so he can deal with the article 8 issues that remain outstanding.

NOTICE OF DECISION

9. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. I remit the human rights appeal back to the First-tier Tribunal for a fresh hearing on this issue.

Signed

Date 22/11/2017



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT
FEE AWARD

No fee award was made.

Signed

Date 22/11/2017



Deputy Upper Tribunal Judge Alis