



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

Appeal Number: HU/03636/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 16<sup>th</sup> January 2019**

**Decision & Reasons Promulgated  
On 4<sup>th</sup> February 2019**

**Before**

**UPPER TRIBUNAL JUDGE FREEMAN**

**Between**

**Christiana Ekwutosi OHAKANU**

Appellant

**and**

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

Respondent

**Representation:**

For the appellant: *Sasthi Jaisri*, counsel instructed by Irving & Co

For the respondent: Mr Tom Wilding


**DECISION AND REASONS**

This is an appeal by a citizen of Nigeria born in 1977 against a decision by Judge Moore sitting at Taylor House on 22 August 2018. She was here in November 2013 on a visit visa and met the sponsor, who is a British citizen. In February 2014 she returned to Nigeria, and in May that year she and the sponsor had a traditional marriage there. In July she returned to this country, and from then on lived with the sponsor. In October they went through a civil marriage, and she then applied for a wife visa on 7 January. On 6 March that was refused with a right of appeal, and on 18 September that appeal came before Judge Manuell. The respondent was not represented for some reason; but the appeal went ahead, and Judge Manuell found that the appellant and the sponsor had a genuine and subsisting relationship.

2. Judge Manuell dismissed the appeal; but for reasons unrelated to the appellant and the sponsor's relationship. During the course of 2015 the appellant had had some NHS treatment in this country, and there were outstanding charges for that. The appellant returned to Nigeria, and made a second application for a wife visa. On 13 January 2016 that application was refused on the basis of the outstanding charges, and on an assessment of the appellant's Article 8 rights. On 23 August that decision was confirmed by the entry clearance manager, and a second appeal came before Judge Hussain on 15 June 2017. At that hearing the presenting officer conceded the point on the NHS charges, on the basis that there were arrangements in hand for them to be paid, in accordance with the terms of the relevant policy. However the presenting officer argued that there was not the necessary family life between the appellant and the sponsor. This time the judge was not satisfied of the relationship between them, and dismissed the appeal on that basis.
3. On 28 November the appeal came before this Tribunal in front of Judge Warr. Judge Warr found that Judge Hussain had taken a wrong approach to Judge Manuell's findings and directed a fresh hearing. On 22 August 2018 that came before Judge Moore. Judge Moore decided that he could depart from Judge Manuell's findings, on the basis that Judge Warr had found them vague and unconvincing. However, unfortunately Judge Moore overlooked the fact that the passage he was relying on "having heard the oral evidence of the sponsor I found him to be vague and unconvincing" appeared in a long passage from Judge Hussain's decision which was cited word for word by Judge Warr at paragraph 4 of his own; but without the quotation marks being immediately apparent round the passage cited.
4. It is clear that those were not findings upheld by Judge Warr when he found there had been an error of law on the part of Judge Hussain. It follows that Judge Moore approached the case on a wrong basis, and there will have to be a fresh hearing before another first-tier judge.

**Appeal allowed:: decision under appeal set aside**

**Fresh hearing at Taylor House (not before Judges Manuell, Hussain or Moore)**

A handwritten signature in black ink, consisting of stylized, overlapping letters that appear to be 'JLH'.

(a judge of the Upper Tribunal)