



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

Appeal Number: HU/11317/2018

**THE IMMIGRATION ACTS**

**Heard at Manchester Civil Justice  
Centre  
On 2 August 2019**

**Decision & Reasons Promulgated  
On 9 August 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**OLUWATOBI [A]  
(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 McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant was born on 9 June 1996 and is a male citizen of Nigeria. By a decision dated 8 May 2018, the Secretary of State refused the appellant's application to remain in the United Kingdom on the basis of his private life. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 16 November 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant attended the initial hearing in the Upper Tribunal in person with his mother. I was careful to explain the nature and scope of the proceedings to the appellant and to ensure that the understood what I had

said. I told the appellant that he should let me know if, during the course of the hearing, anything was said which he did not understand. He told me that he would do so. The appellant presented as an intelligent young man who spoke fluent English and I had no reason at all to believe that he did not comprehend the nature of the proceedings.

3. The grant of permission states that it was 'arguable that the judge failed to address whether the appellant was a vulnerable witness consequent to a significant history of mental health concerns and therefore whether a lower standard of proof should be applied to the appellant's evidence: *AM (Afghanistan)* [2018] 4 WLR 78.
4. I asked the appellant to describe experience of appearing before the First-tier Tribunal. He told me that the 'judge was fine'. He explained that he had attended court initially as a 'float' appeal and had done so with a professional representative. He had paid for that representative's attendance even though the case had not been called on the hearing. The representative had wanted further payment when the case was relisted and the appellant had been unable or unwilling to pay the fees. It was striking that the appellant made no complaint as to the way in which he was treated before the First-tier Tribunal; his concern was solely with the fact that he had not had a lawyer acting for him.
5. The appellant told me that he is still on treatment for psychosis but that his doctors have been unable to diagnose the causes of his mental difficulties. He said that he did feel a 'little bit better' now that he had at the time of the First-tier Tribunal hearing.
6. At [3], judge notes that the appellant was not represented. As a consequence, the judge 'took [the appellant] through the case carefully.' The judge 'established... that [the appellant] understood the reasons why he had been refused leave which in essence was because his account of being unable to return to Nigeria because it illness meant he had been rejected by his father had not been accepted and are having spent most of his life in Nigeria, he would easily reintegrate.' In the light of comments made to me at the hearing by the appellant, the grounds of appeal and the clear statements in the decision which indicate that the judge was careful to explain the proceedings to an unrepresented appellant, I am satisfied that the judge has treated the appellant appropriately. In any event, the oral evidence given by the appellant was, save for what he said about smoking cannabis (which could make no difference to the outcome of the appeal) uncontroversial; no part of that evidence as recorded by the judge betrays any suggestion of vulnerability on the part of the appellant witness.
7. The grounds of appeal complained that the judge failed to take the appellant's mental illness into account. I note that the judge has dealt with the mental illness as a first consideration in his Findings and Conclusions commencing at [10]. It was open to the judge to disbelieve the appellant's claim that he had not smoked cannabis; such medical evidence as was

available indicated that he was suffering from a cannabinoid induced psychotic disorder. Thereafter, the judge analyses in detail the availability of mental health services in Nigeria. No issue has been taken by the appellant with the judge's findings.

8. I am satisfied the judge has produced a careful and even-handed analysis, assessing the evidence in the light of the fact that the appellant appeared before him unrepresented. I am satisfied that the judge has fully taken into account the fact that the appellant has suffered from mental health difficulties and has taken those difficulties properly into account in reaching his decision. Given the uncontroversial nature of the evidence, the appellant's mental health condition was relevant primarily in respect of the treatment which he could expect to receive in Nigeria, an aspect of the case in which the judge's analysis is unimpeachable.
9. At the end of the appeal, I heard briefly from the appellant's mother. She became upset when telling me that she did not wish to see her family broken up and that the appellant would struggle upon return to Nigeria. I was grateful to her for her contribution. However, this appeal must be decided in accordance with the law and, for the reasons I have stated above, I am unable to identify any error of law in the decision of the First-tier Tribunal. Consequently, the appeal must be dismissed.

### **Notice of Decision**

This appeal is dismissed.

Signed

Date 2 August 2019

Upper Tribunal Judge Lane