



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/06855/2020**

THE IMMIGRATION ACTS

**Heard at Field House via Microsoft Teams Decision & Reasons Promulgated
On 8 February 2022 On 18 March 2022**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**JULIUS ADENIYI AYODELE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr G Davison, instructed by Paul John & Co Solicitors
For the Respondent: Ms A Ahmed, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Nigeria. He appealed to the First-tier Tribunal against the Entry Clearance Officer's decision of 28 July 2020 refusing his application for entry clearance. The judge dismissed the appeal and the appellant was granted permission to appeal on a number of grounds. There was a Rule 24 response, which I had not seen before the day of the hearing. In that, the respondent did not oppose the application for permission to appeal and invited the Upper Tribunal to determine the matter with a fresh oral continuance hearing.

2. I heard what was in effect a joint submission on the part of Mr Davison and Ms Ahmed. The Secretary of State wished to expand the refusal to challenge among other things the genuineness and subsistence of the relationship between the appellant and his wife. There was no opposition on the part of the appellant to the proposal that the Entry Clearance Officer should have three weeks to put in a position statement raising any other issues and then four weeks for the appellant to respond. There might be slightly new issues and it could require further evidence. Thereafter there would need to be a week before the hearing and therefore a date not before two months from today's date was sought.
3. In light of the raising of a new issue and the need for fresh evidence, it seemed to me, and neither representative dissented, that the matter will have to be reheard in its entirety in the First-tier Tribunal, in particular bearing in mind that there may be new issues in the position statement of the Secretary of State. Accordingly, I find that there is, as is common ground, an error of law or errors of law in the judge's decision on the basis set out in the grounds of appeal, in particular with regard to the finding on family life and the failure to consider the best interests of the child. The matter is remitted to the First-tier Tribunal at Hatton Cross for a full rehearing, that matter not to be listed before the middle of April 2022.

Notice of Decision

The appeal is allowed to the extent set out above.

No anonymity direction is made.



Signed

Date 11 February 2022

Upper Tribunal Judge Allen