



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

Appeal Number: IA/28929/2011

**THE IMMIGRATION ACTS**

**Heard at Sheldon Court**

**On 25 March 2014**

**Determination**

**Promulgated**

**On 22 April 2014**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**AJIBOLA LUKMAN AWORINDE**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr C Boyle, Solicitor from Halliday Reeves Law Firm

For the Respondent: Mr M Hussain, Senior Home Office Presenting Officer

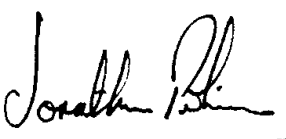
**DETERMINATION AND REASONS**

1. This determination confirms an indication already given by Deputy Upper Tribunal Judge Parkes in Directions dated 16 July 2012 that the First-tier Tribunal erred in law in its consideration of the appellant's claim that his removal would contravene the United Kingdom's obligations under the European Convention on Human Rights.
2. It is particularly regrettable that at paragraph 35 of the determination the First-tier Tribunal Judge found that the appellant was in a relationship with a woman who is identified but the relationship was described as something that did not:

“constitute family life for the purpose of Article 8. They are not married or living together and the relationship is relatively recent. The appellant's relationship with Mr Dyche does not therefore enable him to succeed in a human rights claim.”

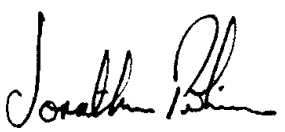
3. This is an ambiguous phrase. It is not clear if the First-tier Tribunal Judge recognised the relationship as part of the private and family life of the appellant but found it of so little consequence that disrupting it would not be a disproportionate interference with those rights (which is a legally permissible conclusion if explained properly but it has not been explained properly) or, alternatively found that the relationship was not part of the private and family life of the appellant. Such a finding would be hard to understand given the evidence presented to the court.
4. It follows that this appeal has to be decided again and it is my judgment on the information before me that the appeal should be decided in the First-tier Tribunal. So much time has now lapsed since the original decision that there is nothing of any consequence in the existing findings that can be taken as any more than a vague starting point. This is an appeal that has to be argued on fresh disclosure of facts.
5. The Tribunal has contacted the Family Court in accordance with the appropriate protocol and has been told about the appellant's application for contact with his child. Mr Boyle indicated before me today that this relationship would not feature in the new claim to be brought on Article 8 grounds.
6. It is for the First-tier Tribunal to give directions for the proper conduct of this case but I anticipate that the appellant will be directed to produce an up-to-date statement from any person, including himself, seeking to give evidence in support of his contention that removal would be an unlawful interference with his private and family life.

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal



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Dated 16 April 2014



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