



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

Appeal Number: HU/24552/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 17 October 2019**

**Decision & Reasons Promulgated
On 24 October 2019**

Before

UPPER TRIBUNAL JUDGE FINCH

Between

FRANCK STEPHANE ROBERT OUM

(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not legally represented, acting as a litigant in person

For the Respondent: Ms A. Fijiwala, Home Office Presenting Officer

DECISION AND REASONS

BACKGROUND TO THE APPEAL

1. The Appellant is a national of Cameroon. He entered the United Kingdom, as a Tier 4 (General) Migrant, on 15 September 2009 and was subsequently granted further leave in this capacity until 29 February 2012.

He then applied for further leave as a Tier 4 (General) Student on 6 September 2013 but his application was refused on that same day.

2. The Appellant was served with notice of liability to removal on 11 September 2017 and detained on 19 April 2018. He then made a human rights claim on 23 April 2018. This claim was refused on 7 November 2018. The Appellant appealed and his appeal was dismissed by First-tier Tribunal Judge Devittie in a determination promulgated on 21 May 2019.
3. First-tier Tribunal Judge Robertson granted the Appellant permission to appeal in relation to paragraphs 1 and 2 of his grounds which related to paragraphs 10 and 12 of First-tier Tribunal Judge Devittie's determination.

ERROR OF LAW HEARING

4. At the hearing I asked the Home Office Presenting Officer to make her submissions first so as to give the Appellant an opportunity to better understand the case being made against him. The Appellant then replied. I have taken both of their submissions into account when coming to my decision below. Some of the Appellant's submissions related to grounds on which he had not been granted permission to appeal and, therefore, I have not referred to these below as I can only consider the grounds on which permission has been granted.

ERROR OF LAW DECISION

5. The Appellant's human rights application was based on the family life he enjoyed with his partner, who is a British citizen. They have been living together since 2 May 2017 and plan to marry. However, he cannot meet the requirements of GEN.1.2 of Appendix FM to the Immigration Rules as they are not married and have not been cohabiting for the necessary period of time to be classified as living in a relationship akin to marriage.
6. First-tier Tribunal Judge Devittie accepted that the Appellant was in a genuine and subsisting relationship with his partner, that they intended to marry and that they were undergoing fertility treatment.

7. However, in order to succeed under paragraph EX.1.1. of Appendix FM the Appellant had to show that there would be insurmountable obstacles to him and his partner enjoying a family life outside the United Kingdom.
8. The ground on which permission to appeal was granted was that it was not clear, on the basis of the evidence before the Judge, that he gave clear reasons for finding that the Appellant's relationship with his partner was accepted by his parents and that they would fund him and his partner on their return to Cameroon.
9. However, this ground had to be considered in the context of findings made by First-tier Tribunal Judge Devittie in sub-paragraphs 9(1)(c) (i) to (iv) or (d) of his decisions, on which permission to appeal had not been granted. In these sub-paragraphs the Judge had found that the Appellant's father had not ceased providing him with financial support in 2012 and that, therefore, this was not the reason why the Appellant did not complete his second year of his university course. He also found that since 2012 the Appellant's mother has sent the Appellant a considerable amount of money to cover his tuition fees and maintenance and that the source of this money meant that his father must have been aware that these funds were being sent to him. He also did not accept that the Appellant's father was a well-known businessman and that, if the Appellant relocated to any part of Cameroon away from the area from which he came, his father's business associates would recognise him and inform his father.
10. In his oral submissions the Appellant relied on the statement of additional grounds submitted by Greenfields Solicitors, dated 17 July 2018, and which was before First-tier Tribunal. It said:

“In addition, the applicant explains to us that due to Cameroonian culture and according to his tribal customs, he is not permitted to marry outside of his tribe as the marriage would not be accepted and he would be exiled from his tribe and family for going against well-established customs, particularly so when his partner is not even a

Cameroonian but of an entirely different ethnicity which is unacceptable according to his heritage. As such, the applicant would be entirely destitute if returned to Cameroon in such circumstances and would have no means of survival”.

11. He also noted that at most the Judge concluded in sub-paragraph 9(1)(b) that “it is often the case in modern times that persons of different cultural backgrounds decide to marry and to settle in a country whose culture is alien to them”.
12. He then explained that in Cameroon tribal custom would not approve of him marrying outside his tribe and if he married his partner he would be exiled from his tribe and would not be party to customary rituals handed down from his ancestors and would not receive any blessings. family and his partner.
13. It is correct that First-tier Tribunal Judge Devittie did not address this issue in any detail in his decision. But, as I explained to the Appellant, the assertions made by his solicitors in their statement of additional grounds were, at best, bare assertions. As were the statements made by the Appellant before me. He not provided any evidence as to his membership of a particular tribe or its customs and practices. Therefore, even if First-tier Tribunal Judge Devittie had addressed these assertions, there would not have been sufficient evidence upon which he could find on a balance of probabilities that the Appellant would be “exiled” from his family and tribe if he returned to the Cameroon and wished to marry his present partner. In addition, there would have been insufficient evidence on which to conclude that his partner would be neglected, rejected and isolated because she did not come from the same tribe as the Appellant.
14. In addition, as submitted by the Home Office Presenting Officer, as First-tier Tribunal Judge Devittie had found as a fact that the Appellant’s father would not be able to trace him within Cameroon and would in case not cause him any harm.

15. Therefore, the failure on the part of the Judge to address these issues did not amount to a material error of law.
16. Furthermore, in paragraph 12 of his decision he gave detailed reasons for finding that there were no exceptional circumstances which would justify the Appellant being granted leave to remain outside the Immigration Rules and this finding was not challenged in the grounds of appeal.
17. As a consequence, I find that there were no material errors of law in First-tier Tribunal Judge Devittie's decision.

DECISION

- (1) The Appellant's appeal is dismissed.
- (2) First-tier Tribunal Judge Devittie's decision is upheld.

Nadine Finch

Signed
Upper Tribunal Judge Finch

Date 22 October 2019