



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/39851/2013**

THE IMMIGRATION ACTS

Heard at: Field House

**Determination
Promulgated**

On: 16 September 2014

On 9 October 2014

Prepared: 29 September 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE MAILER

Between

**MR AJIBOLA OLUWAFEMI LALEYE
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr A T Laleye, Solicitor

**For the Respondent: Mr S Walker, Senior Home Office Presenting
Officer**

DETERMINATION AND REASONS

1. The appellant is a national of Nigeria. He appeals with permission against the determination promulgated on 20th May 2014 by First-tier Tribunal Judge Carroll who dismissed the appellant's appeal against the respondent's decisions to refuse to vary his leave to remain in the UK and to remove him.
2. Judge Carroll noted that the appellant had indicated that he wished to have an oral hearing. The notification of the hearing date was sent to the appellant at the address in London in the notice of appeal. There had

been no correspondence. The Judge was satisfied that the notice of hearing had been duly served. The matter was stood down until later in the day. There was still no appearance and no explanation.

3. The appellant had submitted an application for leave to remain as a Tier 4 (General) Student. His application was refused as he had failed to meet the requirements of paragraph 120(a) of Appendix A to the rules and had also not shown that he was in possession of the relevant maintenance required for a consecutive 28 day period to meet the maintenance requirements.
4. The appellant appeals with permission from First-tier Tribunal Judge Brunnen. In granting permission. Judge Brunnen found that in view of the assertion that the appellant did not receive the notice of hearing, permission was granted '....so as to enable the appellant to present his case'.
5. However, Judge Brunnen went on to state that it did not appear that his appeal had any prospect of success as the Judge had dismissed the appeal because, amongst other reasons, the appellant had failed to submit any evidence with his variation application to show that he had the required funds. The grounds seeking permission did not address that issue. It was not contended that any evidence of funding, compliant with the immigration rules, was submitted with the application. He stated that the lack of funding evidence was inevitably fatal both to the application and to the appeal under the immigration rules.
6. With regard to Article 8, as the grounds made clear, the appellant has completed his course of study. There was nothing in the grounds indicating any basis of claim that could conceivably have led to a finding that Article 8 was engaged.
7. At the hearing before me, Mr Laleye informed the tribunal that he is a relative of the appellant. He was aware of Judge Brunnen's comments regarding the problems posed by the lack of any evidence in respect of maintenance. He made no further submissions.
8. Mr Walker submitted that in the circumstances, even assuming that there had been some kind of procedural irregularity, there was in the event no material error made by the Judge in dismissing the appellant's appeal.

Assessment

9. It is not contended by Mr Laleye that the appellant was able to meet the requirements under Appendix C of the Immigration Rules. In the circumstances, the appeal was in any event bound to fail on that basis,

whether or not the appellant attended the hearing. There was no submission on Article 8 grounds.

Decision

The decision of the First-tier Tribunal Judge did not involve the making of any material error of law and the decision shall stand.

No anonymity order made.

Signed

Date 29/9/2014

C R Mailer
Deputy Upper Tribunal Judge