



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

Appeal Number: OA/19632/2013

THE IMMIGRATION ACTS

**Heard at Glasgow
on 17th February 2015**

**Promulgated on
On 18th February 2015**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ADEKUNLE MUAZU OLAOTI

Appellant

and

ENTRY CLEARANCE OFFICER, NIGERIA

Respondent

Representation:

For the Appellant: Mr A J Bradley, of P G Farrell, Solicitors

For the Respondent: Mrs M O'Brien, Senior Presenting Officer

DECISION AND REASONS

1. The appellant appeals against a determination by First-tier Tribunal Judge Newberry (promulgated on 9th June 2014 following a hearing at Taylor House on 6 May 2014) dismissing his appeal against refusal of entry clearance to join his father in the UK.
2. The appellant (through the sponsor, who lives in Scotland) has changed representatives since the hearing in the First-tier Tribunal. Neither representative had a complete file, nor was the history entirely clear from the Tribunal file. Previous representatives have not provided an explanation of what may have gone wrong. However, it is apparent that

the appellant submitted a 51 page bundle or inventory of evidence in advance of the hearing, but it was either overlooked by the judge or was not placed on the file in good time for his attention. The appellant was not represented at the hearing and the judge recorded that there had been no letter or other communication seeking an adjournment, but the appellant's representative had sought a change of hearing centre. It seems a representative may have been instructed and may have gone to another hearing centre.

3. The information available is incomplete but it was enough for the Presenting Officer (very fairly) to concur that there was a breakdown of procedure such that there has not yet been a fair hearing.
4. The determination of the First-tier Tribunal is **set aside**. Under Section 12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to **remit the case to the First-tier Tribunal**. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge Newberry.
5. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

Upper Tribunal Judge Macleman
18 February 2015