



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

Appeal Number: HU/01485/2016

THE IMMIGRATION ACTS

Heard at: Field House

**Decision &
Promulgated**

Reasons

On 15th January 2018

On 17th January 2018

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

The Secretary of State for the Home Department

Appellant

And

**Alao Raimi
(anonymity direction not made)**

Respondent

**For the Appellant:
Officer**

Mr Melvin, Senior Home Office Presenting

For the Respondent: Mr Paraskos, AO & Associates

DETERMINATION AND REASONS

1. Mr Alao is a national of Nigeria date of birth 15th May 1960. On the 20th March 2017 the First-tier Tribunal allowed his appeal. The Secretary of State for the Home Department now has permission to appeal against that decision, on the grounds that the Tribunal applied the wrong legal framework and gives no intelligible reason for the appeal being allowed. The Judge in the First-tier Tribunal was Dr Majid.
2. Mr Alao had applied for leave to remain on human rights grounds on the

basis of his relationship with his wife, a British national called Mrs Ogunfolu, and by extension his parental relationship with her children. Leave had been refused on the 23rd December 2015 on the grounds that Mr Alao could not meet the requirements of Appendix FM, principally because he had not established that his relationship with Mrs Ogunfolu was genuine and subsisting. When the matter came before the First-tier Tribunal the matters in issue therefore were:

- a) Was this a subsisting relationship?
 - b) If so could the requirements of the rules be met?
 - c) If the rules could not be met was the refusal to grant leave nevertheless a disproportionate and therefore unlawful interference with the appellant's family life?
3. The First-tier Tribunal begins its determination by directing itself to the Immigration (European Economic Area) Regulations 2006 (as amended). It further refers to HC395 and the Immigration Acts 2014 and 2016 and goes on, over the following 20+ paragraphs to make reference to various cases, very few of which appear to have any application to Mr Alao's case. The determination also devotes several paragraphs to discussion of the Conservative Party's antipathy towards the European Convention on Human Rights. The determination concludes by stating that the appeal is allowed.
 4. Although Mr Alao's representatives have attempted to defend the decision, I have no doubt at all that this is an appeal that must be allowed, with the matter being remitted to the First-tier Tribunal to be heard afresh. The decision of the First-tier Tribunal contains no reasoned findings on any of the matters in issue (a)-(c) above. It contains many of the errors of law discussed by the Upper Tribunal in MM and Others (AA/06906/2014 unreported). It contains numerous legal misdirections and almost entirely ignores the facts. The fact that the decision might in the end be the correct one cannot save the determination. I set it aside and remit the matter.

Decisions and Directions

5. The decision of the First-tier Tribunal contains errors of law such that the decision must be set aside. The decision in the appeal is to be re-made in the First-tier Tribunal.
6. There is no order for anonymity.

Upper Tribunal Judge Bruce

15th January 2017