



**Upper Tribunal  
(Immigration and Asylum Chamber)  
HU/12966/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 7 February 2019**

**Decision & Reasons  
Promulgated  
On 13 February 2019**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**Mr ERONMOSELE BLESSED OGBEWI  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms E Lanlehin, Counsel  
(instructed by Jeff-Leonard, Solicitors)

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. Permission to appeal was granted by First-tier Tribunal Judge Garratt on 22 November 2018 against the decision to dismiss the Appellant's Article 8 ECHR appeal made by First-tier Tribunal Judges Beach and Krish in a decision and

reasons promulgated on 19 October 2018. The Appellant is a national of Nigeria, who had sought a variation of his existing leave to remain as a Tier 4 (General) Student to that of a partner of a United Kingdom settled person under Appendix FM of the Immigration Rules.

2. Judges Beach and Krish found that the Appellant and his sponsor had not shown that they had a genuine and subsisting relationship. Appendix FM thus could not be met. As to paragraph 276ADE of the Immigration Rules, the Appellant faced no very significant obstacles reintegrating in Nigeria. His ex-partner and their daughter (not a qualifying child) had no status in the United Kingdom. There was no Article 8 ECHR disproportionality in such circumstances. Hence the appeal was dismissed.
3. Permission to appeal was granted because it was considered arguable that the panel had overlooked or misunderstood material evidence and had drawn the wrong inferences about particular events.
4. The Respondent filed a rule 24 notice in the form of a letter dated 10 December 2018 opposing the appeal. There was no procedural unfairness and adequate reasons had been given for the findings reached.
5. Ms Lanlehin for the Appellant who had not appeared below) relied on the grounds submitted and the grant of permission to appeal. The panel failed to ensure that the inconsistencies of concern to them in the evidence were raised with the witnesses. The panel had misunderstood the evidence about the Appellant's culture, the Appellant's working hours and the sponsor's holidays. The panel had given inadequate reasons. A dialogue with the tribunal followed. It was submitted that the appeal should be allowed and the decision either remitted for rehearing or remade in the Appellant's favour.
6. Ms Isherwood for the Respondent relied on the rule 24 notice. The panel were entitled to draw the adverse inferences which they had done. The Appellant was represented. There were numerous and multifaceted reasons given for the adverse credibility findings. The appeal should be dismissed.
7. There was no reply as the submissions for the Appellant had been fully canvassed.

8. The grant of permission to appeal was in the tribunal's view a liberal one, particularly given the confused and largely generic onwards grounds of appeal which had been served, and which were directed against the First-tier Tribunal's findings of fact. The tribunal accepts Ms Isherwood's submissions. There was no misunderstanding of the evidence by the panel, led by a very experienced judge. Matters such as the Appellant's route to work and its timings were drawn directly from his witness statement. The Appellant was represented at the hearing and there had been ample time to prepare and submit evidence: indeed, a 113 page bundle of evidence had been served. As Ms Isherwood pointed out, the Home Office's reasons for refusal letter had set out a number of difficulties with the case put forward on behalf of the Appellant (see, e.g., the section headed "Eligibility"), as well as serving copies of the marriage interview records, so he was on notice long before the hearing that the genuineness of the relationship claimed was heavily contested. The panel's task was to assess and evaluate the evidence placed before them, not to engage in quasi cross-examination of the Appellant. The panel raised no new matters and there was nothing to take the Appellant by surprise so as to cause procedural unfairness.
9. In the tribunal's judgment, the First-tier Tribunal panel, led by a very experienced judge, produced a full and balanced determination, which securely resolved the issues. Nothing more than disagreement with the decision has been identified. The tribunal finds that there was no error of law and the onwards appeal must be dismissed.

### **DECISION**

The appeal to the Upper Tribunal is dismissed.

There was no material error of law in the First-tier Tribunal's decision and reasons, which stands unchanged.

**Signed**

**Dated** 7 February 2019

**Deputy Upper Tribunal Judge Manuell**