



IAC-AH-DN-V1

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

Appeal Number: IA/02653/2015

THE IMMIGRATION ACTS

**Heard at Centre City Tower Birmingham
On 31st March 2016**

**Decision & Reasons
Promulgated
On 14th April 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE FRENCH

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**USMAN GBADEBOWALE AGBOOLA
(ANONYMITY ORDER NOT MADE)**

Respondent

Representation:

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer
For the Respondent: Miss E Norman instructed by Messrs J M Wilson

DECISION AND REASONS

1. The application of Mr Agboola for leave to remain had been refused by the Secretary of State as she was not satisfied that the relationship between Mr Agboola and his British partner was genuine and subsisting, the refusal being made under Appendix FM E-LTRP1.7 of the Immigration Rules.
2. Mr Agboola's appeal against that decision was heard before First-tier Tribunal Judge Rose who in a decision promulgated on 27th July 2015 allowed the appeal both under the Immigration Rules and under Article 8 ECHR. Judge Rose found that the relationship was genuine and subsisting, that Mr Agboola had a genuine parental relationship with the children of the family and that it would not be reasonable to expect them to go to Nigeria. The judge found that paragraph EX.1(a) of Appendix FM related to Mr Agboola and that he met the requirements of paragraph R-LTRP1.1. The consideration under Article 8 was cursory as Mr Agboola met the requirements of the Immigration Rules.
3. The Secretary of State applied for permission to appeal contending that the judge had misdirected himself in considering that EX.1, which was not free-standing, and also by failing to give adequate reasons as to why Mr Agboola should qualify under Article 8. Permission was granted on that basis.
4. At the commencement of the hearing Mr Mills indicated that he regarded the grounds as having been drafted in error based on a misunderstanding. The only issue raised by the Secretary of State had been the question of the relationship between Mr Agboola and his British partner. The judge had found that the relationship was genuine and subsisting. He accepted that the other requirements of the Rules were met and he conceded that the decision to allow the appeal should therefore stand. I had already reached my own preliminary view to the same effect. In the circumstances I did not need to call upon Miss Norman.

Decision

The making of the decision by the First-tier Tribunal did not involve a material error on a point of law and the decision that the appeal be allowed therefore stands.

There was no request for an anonymity order and none is made.

The judge in the First-tier Tribunal made no fee award and his decision in that regard stands also.

Signed

Date 7 April 2016

Deputy Upper Tribunal Judge French