



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001353

First-tier Tribunal No:
HU/55910/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 26th of June 2024

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

OKAFOR COLLINS

Appellant

and

S S H D

Respondent

For the Appellant: Mr A Alam of counsel, instructed by Expert Law Solicitors
For the Respondent: Ms S Nwachuku, Senior Home Office Presenting Officer

Heard at Field House on 18 June 2024

DECISION AND REASONS

1. FtT Judge Dineen dismissed the appellant's appeal by a decision dated 2 February 2024.
2. FtT Judge Bartlett refused permission to appeal to the UT. By an application dated 8 April 2024, the appellant sought permission from the UT on 8 grounds, set out at length, which may be summarised as follows.
3. Ground 1 is that the assessment at [22 - 26] of EX1(b) and article 8 proportionality is inadequate, inaccurate, and makes no broad evaluative assessment. The factual error alleged is that the Judge thought the appellant had leave to remain until the end of his wife's studies in October

2024, whereas her studies were not mentioned in the evidence, and his leave had been curtailed to expire on 4 August 2023.

4. Ground 2 is absence of an assessment of family life.
5. Ground 3 is absence of an assessment of (i) the appellant's mental health, as set out in his statement and a letter from The London Road Medical Centre (ii) the stress on his wife of proposed IVF treatment and (iii) the fact that his wife is not going to Nigeria.
6. Ground 4 is that in the assessment of the impact of separation account was not taken of (i) the fact that his wife is not going to Nigeria and (ii) the time an entry clearance application would take.
7. Ground 5 is that the Judge took account of the appellant's precarious status, which was irrelevant to family life, and as the relationship was established when he was in the UK lawfully, this was a neutral factor.
8. Ground 6 is absence of analysis of the right of the appellant and his wife to respect for their home, which they were buying jointly.
9. Ground 7 is that in relation to the 5 year partner route, the Judge said the teaching contract of the appellant's wife's was not produced, when it was provided on the day of the hearing.
10. Ground 8 is that although the Judge found the appellant to be financially self-sufficient, he failed to "consolidate the finding in the proportionality assessment".
11. On 30 April 2024, Deputy UT Judge Haria extended time and gave permission, on the view that the decision was arguably inadequate on whether there are insurmountable obstacles to family life continuing outside the UK and whether the respondent's refusal would result in unjustifiably harsh consequences. The grant was primarily on grounds 1, 2, 4, and 7, but not restricted.
12. The applicant's bundle for the FtT includes an application to rely on evidence which was not before the FtT - the current medication of his wife "amid IVF treatment", her bank statements from April 2023 to April 2024, and her payslips. This evidence will become relevant at a later stage.
13. Ms Nwachuku conceded that the decision of the FtT errs in law, and should be set aside.
14. That concession was fairly and sensibly made. The decision is brief, less than 4 pages,. Concision is a virtue, but can be taken too far. The Judge unfortunately fell into misconceptions of the evidence, most notably in thinking that the appellant's wife is in the UK on a student visa, when she is a UK citizen. The decision glosses over significant aspects of the case, as brought out in the grounds.

15. The decision of the FtT is set aside. The case is remitted to be heard again by another Judge. No interpreter is needed.

Hugh Macleman

Judge of the Upper Tribunal
Immigration and Asylum Chamber
18 June 2024