



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

Appeal no: **IA12765-13**

**THE IMMIGRATION ACTS**

At **Field House**  
on **22.11.2013**

Decision signed:  
**22.11.2013**  
sent out: **29. 11.2013**

Before:

Upper Tribunal Judge  
**John FREEMAN**

Between:

**Andries OLIVIER**

appellant

and

**Secretary of State for the Home Department**

respondent

Representation:

For the appellant: *H Davis* (counsel, by direct access)  
For the respondent: Mr P Deller

**DETERMINATION AND REASONS**

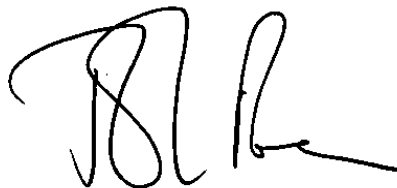
This is an appeal, by the appellant, against the decision of the First-tier Tribunal (Judge Sean Fox), sitting without a hearing (the appellant not having asked ) at Belfast on 2 August, to dismiss a student's husband appeal by a citizen of South Africa, born 26 September 1985. Permission was given to challenge the lawfulness of the judge's upholding the removal directions, which had been given at the same time as the refusal to extend the appellant's leave, against which he had appealed. That part of the appeal is allowed by consent: see *Adamally & Jaferi* (section 47 removal decisions: Tribunal Procedures) [2012] UKUT (IAC) 414.

2. So far as the appellant's challenge to the judge's decision on the merits of the refusal of leave to remain is concerned, the grant neither gave nor

refused him permission to argue that. I invited Mr Davis to identify the grounds, which he did by reference to the grounds of appeal, not those before the judge, but those on which the application to this Tribunal had been based. Clearly however similar grounds had been raised before the judge, and he had dealt with them at paragraph 18; so I invited Mr Davis to specify the basis on which he said the judge's decision had been wrong in law on the material before him, but he frankly acknowledged that there had been no arguable error of law on the part of the judge, except for confirming (on the authorities as they had been) the removal directions.

3. The grounds raise a complaint of misleading advice given to the appellant or his wife on his behalf by Home Office staff, whom they were unable to identify. Mr Deller undertook to discuss this complaint with them after the hearing, and to investigate any legitimate basis for it, so far as the Home Office decision-making process was concerned. However, the judge was not wrong in law in his decision on this point, and the appeal against the refusal of leave to remain must fail. Unfortunately the appellant and his wife knew no better than to take the option of having it decided in the First-tier Tribunal without a hearing: this is rarely to the appellant's advantage in an in-country case, and those responsible for designing the appeal forms might like to consider whether they should not carry some warning about that.

**Appeal against removal directions allowed**  
**Appeal against refusal of leave to remain dismissed**

A handwritten signature in black ink, consisting of stylized, overlapping letters that appear to be 'JDL' followed by a horizontal line.

(a judge of the Upper  
Tribunal)