



IAC-AH-CO-V1

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

Appeal Number: IA/35859/2014

THE IMMIGRATION ACTS

**Heard at Bradford
On 15 June 2015**

**Decision & Reasons Promulgated
On 15 July 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**HOPE EWERE ODJADJARE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Onokwu, Arndale, Solicitors

For the Respondent: Mrs R Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Hope Ewere Odjadjare, was born on 12 March 1978 and is a female citizen of Nigeria. She has appealed to the First-tier Tribunal (Judge Henderson) against a decision of the respondent to refuse her a residence card as a family member of an EEA national (Krystian Glowacki, a citizen of Poland). She now appeals, with permission, to the Upper Tribunal.
2. Judge Henderson, referring to *TA (Kareem explained) Ghana* [2014] UKUT 00316, noted that she had not been provided with any evidence to show

that the appellant's proxy marriage was valid in Polish law [17]. That element of the decision of the judge has not been challenged; the grounds appear to rely only on Article 8 ECHR. However, before me, Mr Onokwu, for the appellant, submitted that, because the appellant and sponsor were "married," this proved they had a durable relationship for the purposes of Regulation 8 of the 2006 Regulations. That submission has no merit. As the judge found [17] the appellant and sponsor are not legally married for the purposes of the 2006 Regulations. As regards "durable relationship" the judge dealt with this at [18 - 20]. She found that there was no "adequate evidence to show there was a durable relationship." She noted much of the "documentary evidence was very recent - April 2014 being the earliest date of the documents provided. Three photographs of the couple together does little to assist in showing evidence of durability." I consider that was a finding plainly open to the judge on the evidence and, although the judge did not go on to deal with Article 8 ECHR, having found that the couple were not married and were not in a durable relationship it is impossible to see how she may have allowed the appeal on Article 8 ECHR family life where she had dismissed it under the 2006 Regulations. The judge did err in law by failing to deal with Article 8, but her error was not material and I decline to set aside her decision.

Notice of Decision

This appeal is dismissed.

No anonymity direction is made.

Signed

Date 10 July 2015

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT FEE AWARD

There is no fee payable.

Signed

Date 10 July 2015

Upper Tribunal Judge Clive Lane