



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

Appeal Number: OA/15874/2013

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**Determination**

**On 3 March 2015**

**Promulgated**

**On 11 March 2015**

**Before**

**UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**ESTHER TUMUSIIME**

Appellant

**And**

**ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant: Mr Mbaziria, friend.

For the Respondent: Mrs Pettersen, HOPO.

**DETERMINATION AND REASONS**

1. This appeal came before Judge Jones on 31 October 2014 at Bradford. The sponsor could not attend the hearing because he was unable to get leave from his work, and produced a letter which said that he risked dismissal if he took unauthorised leave.

2. The judge dismissed the appeal agreeing with the respondent's position, which is that the couple are not in a subsisting relationship.
3. The sponsor had produced a 40 page bundle of documents, seeking to address the concerns of the entry clearance officer. However Mrs Pettersen accepted that the judge did not engage with that evidence, to which he only referred in brief summary form.
4. The judge was in a difficult position, since he was not able to assess the oral evidence of the sponsor, and that may have coloured his approach to the case as a whole. Nevertheless he erred in law because he failed to take into account relevant matters, namely that in the sponsor's bundle.
5. Accordingly the decision of Judge Jones is set aside. It should be remade by a judge other than Judge Jones at Bradford to be listed after 1 April, by which time the sponsor should be in a position to obtain leave from his work and to attend the hearing.

Signed

Date

D E Taylor  
Judge of the Upper Tribunal