



IAC-HW-AM-V1

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

Appeal Number: OA/17743/2013

THE IMMIGRATION ACTS

**Heard at Newport
On 28th July 2015**

**Decision & Reasons Promulgated
On 1st September 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

**MR DENNIS ASSEM
(Anonymity Direction Not Made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Robin James Hossford

For the Respondent: Mr P Richards, Home Office Presenting Officer

DECISION AND REASONS

The Appellant

1. The appellant, a citizen of Ghana born on 2nd February 1983 and he applied for entry clearance to the United Kingdom as a partner under Appendix FM of Mr Robin Hossford. That application was refused on 16th August. The Entry Clearance Officer founded his refusal on the basis that the relationship had been claimed to commence on 1st June 2004 but the appellant and his partner first met on 6th November 2012 and he last saw his sponsor on 28th November 2012. They were planning to marry on 6th

July 2013 in the UK. From the evidence it appeared to the Entry Clearance Officer that the sponsor had met the appellant on one occasion and spent a further three weeks together. There had been no explanation why they did not meet in person until 2012.

2. It was said by the appellant they kept in touch via Skype and emails and that he received money remittances and he had provided a purchase history from Skype as evidence of contact between him and his sponsor but these documents listed credit purchases only and did not demonstrate the facility had been used for the sponsor to contact him. Some money remittances had been provided but these did not demonstrate a subsisting relationship and the Entry Clearance Officer did not accept that the relationship was genuine and subsisting.
3. The matter came before First-tier Tribunal Judge Boyd on 20th August 2014 and he dismissed the appeal both under the Immigration Rules and on human rights grounds on 25th September 2014. At paragraph 4 of his decision he stated the following:

“In considering this appeal, I have before me the Respondent’s’ bundle comprising the Appellant’s Application with supporting documentation, Notice of Decision, Notice of Appeal with Grounds of Appeal and further documentation attached thereto. I have various items of documentation lodged by the Appellant. The Appellant did lodge some documentation post-Tribunal which was received on 25th August 2015 but as this post-dates the date of Decision, I am not able to take this information into account.”
4. An application for permission to appeal was lodged by the appellant but this was initially refused on 20th January 2015 by Judge of the First-tier Tribunal Frankish. It was found there was scant evidence from the appellant although the sponsor was found to be sincere.
5. The application for permission to appeal was renewed to the Upper Tribunal on the basis that the First-tier Tribunal made a mistake in failing to read the evidence and in particular missing the registration booking for the intended partnership or wedding.
6. Permission was granted by Upper Tribunal Judge Kebede on 14th April 2015 as she found that it appeared evidence had not been considered.
7. Mr Richards acknowledged at the hearing that there was an error of law at paragraph 16 in that the judge had failed to identify the note of the booking for the civil partnership.
8. It is not clear from the face of the decision whether the bundle stamped by Richmond-upon-Thames Magistrates’ Court, and dated 15th August 2014 was indeed before the judge who sat at Richmond on 20th August 2014. This evidence included documentary evidence of a moneygram, photograph and two provisional bookings for a civil partnership ceremony dated 27th April 2013 and 25th February 2013. This leads me to conclude that it is possible that this evidence was not before the judge bearing in mind that at paragraph 16 the judge stated

“It is noticeable that there is no evidence produced of any bookings made or enquiries made regarding arranging their civil partnership”.

9. Although Mr Richards urged me to find no material error of law, I do note that the judge remarked on the length of the relationship and the shortage of documentary evidence and made further references to the scantiness of the evidence. I conclude that the omission whether through administrative error or otherwise referring to the evidence in the bundle stamped 15th August 2014 may be material and therefore I set aside the decision because it would appear that there is a procedural error.
10. The appellant is to submit an **indexed and paginated bundle** of all evidence he wishes to rely on and serve identical bundles on both the Tribunal and the respondent at least 14 days before any substantive hearing of which he will be notified.

Notice of Decision

The Judge erred materially for the reasons identified. I set aside the decision pursuant to Section 12(2)(a) of the Tribunals Courts and Enforcement Act 2007 (TCE 2007). Bearing in mind the nature and extent of the findings to be made the matter should be remitted to the First-tier Tribunal under section 12(2) (b) (i) of the TCE 2007 and further to 7.2 (b) of the Presidential Practice Statement.

Signed

Date 24th August 2015

Deputy Upper Tribunal Judge Rimington