



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

Appeal Number: IA/00348/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 1 February 2018**

**Decision & Reasons Promulgated  
On 26 February 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PEART**

**Between**

**MR SURAJ OMOGBOLAHAN GBADAMOSI  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr West of Counsel

For the Respondent: Mr Avery, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant was born on 14 January 1974. He is a citizen of Nigeria.
2. He appealed against the respondent's decision dated 7 January 2016 to refuse leave to remain.
3. Judge R G Walters (the judge) dismissed the appeal in a decision promulgated on 3 April 2017. He found that the appellant had established family life here with his wife and that removal would be an interference with such family and private life but that given private life had been established at a time when the appellant's immigration status was

precarious and that there would not be very significant obstacles facing the appellant and his wife re-establishing family life in Nigeria, that the respondent's decision was proportionate.

4. The grounds claim that the judge erred with regard to proportionality and in particular his finding that there would be no insurmountable obstacles to re-establishing family life in Nigeria bearing in mind the sponsor is "certified deaf". Further, no account was taken that the sponsor was born here, she is aged around 40 and has only visited Nigeria twice. She is dependent upon the appellant to communicate. Such facts were before the judge but he did not take them into account.

5. Judge Birrell granted leave to appeal on 13 December 2017:

*"The findings in this case in relation to the wife's deafness are extremely brief at paragraph 40 and there is no reference to the background material relied on by the appellant."*

6. There was no Rule 40 response.

#### **Submissions on Error of Law**

7. Mr West relied upon the grounds. Mr Avery accepted the findings with regard to the wife's deafness at [40] were brief and further, that there was no reference to the background material relied upon by the appellant.

#### **Conclusion on Error of Law**

8. I find the judge's analysis inadequate. The appellant raised exceptional circumstances and insurmountable obstacles with which the judge was obliged to engage and failed to adequately do so.

#### **Notice of Decision**

9. The decision of the First-tier Tribunal contains errors of law, is set aside and shall be remitted to the First-tier Tribunal for a de novo hearing.

No anonymity direction is made.

Signed

Date 20 February 2018

Deputy Upper Tribunal Judge Peart