



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

Appeal Number: IA/45292/2013

THE IMMIGRATION ACTS

**Heard at Glasgow
on 23 May 2014**

**Determination
promulgated
on 29 May 2014**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

O J ODOKO

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr H Ndubuisi, of Drummond Miller, Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

No anonymity order requested or made

DETERMINATION AND REASONS

1. The appellant appeals against a determination by First-tier Tribunal Judge Fox, dismissing his appeal against refusal of a residence card.
2. Permission to appeal to the UT was granted on paragraphs 1 -5 and 7 of the grounds. Mr Ndubuisi accepted that paragraph 6 is only narrative.
3. As Mr Ndubuisi was winding up his submission, Mr Mullen (fairly and correctly) conceded that the judge went wrong as to the date for admissibility of evidence (ground 1) and by failing to consider evidence of transfer of funds to the appellant in Nigeria (ground 3). While ground 7 might be based on an observation which makes no difference, the

other grounds might also show lack of underpinning for the findings about dependency and household membership.

4. Representatives agreed that the case should be remitted to the First-tier Tribunal for fresh hearing.
5. The determination is **set aside**. No findings of the FtT are to stand. Under s.12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to **remit the case to the FtT**. The member(s) of the FtT chosen to reconsider the case are not to include Judge Fox.

A handwritten signature in black ink, appearing to read "Hugh Maclemon". The signature is written in a cursive style with a large, stylized initial "H".

23 May 2014
Judge of the Upper Tribunal