



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: DA/02045/2013

THE IMMIGRATION ACTS

Heard at Birmingham
On 20 June 2014

Determination Promulgated
On 30 July 2014

Before

UPPER TRIBUNAL JUDGE PITT

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

JORENS SUPE

Respondent

Representation:

For the Appellant: Mr Smart, Senior Home Office Presenting Officer
For the Respondent: Ms Akther, instructed by Hudson Legal

DETERMINATION AND REASONS

The Appeal


1. This is an appeal by the Secretary of State against a determination promulgated on 8 April 2014 of First-tier Tribunal Judge McDade and Dr J O de Barros which allowed the respondent's appeal against deportation.

2. For the purposes of this determination, I refer to Mr Supe as the appellant and to the Secretary of State as the respondent, reflecting their positions as they were before the First-tier Tribunal.
3. The appellant is a citizen of Latvia and was born on 13 February 1994.
4. The background to this matter is that on 15 March 2013 the appellant was sentenced to 14 months imprisonment for the offence of attempted robbery.
5. The First-tier Tribunal found that the appellant was entitled to the higher “serious grounds of public policy or public security” test set by in Regulation 21 (3) of the Immigration (European Economic Area) Regulations 2006 (the EEA Regulations).
6. The respondent’s first ground challenges that finding. She maintains that the First-tier Tribunal did not indicate at [5] how the appellant had shown that he had resided in the UK for 5 years in line with the EEA Regulations. It was not accepted that there was evidence before the First-tier Tribunal showing that the appellant’s mother had worked and therefore been a qualified person in line with the EEA Regulations for a period of 5 years, the appellant thereby also gaining permanent residence.
7. I had no hesitation in finding that the evidence before the First-tier Tribunal allowed only for the conclusion that the appellant’s mother had worked in line with the EEA Regulations for 5 years prior to the appellant being sentenced to imprisonment in 2013. The appellant’s mother provided her P60 document for 2008 to 2013 at pages 248 to 256 of the appellant’s bundle of evidence (AB). The appellant’s mother provided a P45 document dated 17 August 2007 at page 257 of AB showing that she had earned £4,216 in that tax year. She provided at page 258 a letter dated 9 July 2007 stating that she had been working in the UK from November 2006 to July 2007. It has always been the appellant’s case, in his evidence and his mother’s that he qualified for permanent residence because of his mother’s employment from 2006 onwards.
8. Therefore, albeit the First-tier Tribunal address bare length of residence as over 5 years at [5] of the determination, the evidence before them allowed only for the conclusion that the appellant’s was resident in line with the EEA Regulations during this period and so had acquired permanent residence and the benefit of the “serious grounds” test. The First-tier Tribunal did not err in applying that test.
9. I should indicate that the suggestion in the grounds that there was evidence indicating that the appellant’s mother had not been working for 5 years prior to his sentence of imprisonment was withdrawn before me quite properly by Mr Smart as it was not evidence that had been before the First-tier Tribunal.
10. The respondent’s second ground was that the First-tier Tribunal gave inadequate reasons for their finding that the appellant’s rehabilitation prospects were better in the UK than in Latvia. Mr Smart conceded that the challenge was really one of disagreement with the Tribunal’s conclusion on this matter rather than really being an adequacy of reasons challenge and took the point no further. It appeared to me that Mr Smart was correct to take that view of the second ground. The appellant had

demonstrated his remorse and intention not to reoffend and progress in his studies with the support of his family and friends and networks that he has established since coming to the UK at the age of 13. It was open to the First-tier Tribunal to conclude that his rehabilitation here would be more likely to be successful than if he were deported to Latvia and no error arises from that finding.

Decision

17. The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: 
Upper Tribunal Judge Pitt

Date: 25 June 2014