



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

Appeal Number: VA/13522/2013

THE IMMIGRATION ACTS

Heard at Bradford

On 15 July 2014

Determination

Promulgated

On 23 July 2014

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

ENTRY CLEARANCE OFFICER

Appellant

and

KHALIL AZAR

Respondent

Representation:

For the Appellant: Mrs R Petterson, Home Office Presenting Officer

For the Respondent: The Sponsor

DETERMINATION AND REASONS

1. This is the Secretary of State's appeal against the decision of Judge Myers made following a hearing at Bradford on 28th March 2014.

2. The claimant is a citizen of Syria. He appealed against the Entry Clearance Officer's decision made on 5th July 2013 to refuse him and his wife entry clearance as visitors under paragraph 41 of HC 395.
3. The judge heard oral evidence from the Sponsor and was satisfied that the concerns expressed by the Entry Clearance Officer had been satisfactorily addressed, and that the requirements of the Rules relating to visitors were met. She allowed the appeal.
4. The Secretary of State sought permission to appeal on the grounds that the claimant did not have a full right of appeal, which was abolished by Section 52 of the Crimes and Courts Act 2013 in family visitor visa cases and which affected applications submitted on or after 25 June 2013. This application was made on 4th July 2013. It was therefore not open to the judge to allow the appeal.
5. The Sponsor complains that the notice of decision informed him that he had a right for appeal against the decision. He said that he had been put to a considerable amount of expense and inconvenience as a consequence of the mistake of the Entry Clearance Officer.
6. Mrs Petterson acknowledged the errors but maintained that there was no right of appeal. She did however agree with him that he should not have to pay a fee because the expenses to which the Sponsor has been put were as a consequence of errors by the Entry Clearance Officer.
7. It is most unfortunate that the sponsor has wasted time and money on an appeal which should never have been brought. I would hope that the fees which he has paid can be refunded, although I have no jurisdiction to overturn a fee order.
8. The correct course for him is to advise his parents to make a re-application enclosing the determination of the First-tier Tribunal Judge who made strong findings in their favour.
9. However this decision cannot stand because the judge had no jurisdiction to consider the appeal.

Decision

10. The judge erred in law and her decision is set aside. The appeal is dismissed for want of jurisdiction.

Signed

Date

Upper Tribunal Judge Taylor