



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

Appeal Number: DA/01341/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
On 25 August 2015**

**Decision & Reasons Promulgated
On 27 August 2015**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

VITALI GAVRIS

Respondent

Representation:

For the Appellant: Mrs S Saddiq, Senior Home Office Presenting Officer

For the Respondent: Mr B Craigie, Hamilton Burns & Co, Solicitors

DETERMINATION AND REASONS

1. The parties are as above, but the rest of this determination refers to them as they were in the First-Tier Tribunal.
2. By determination promulgated on 15 December 2014 FtT Judge Dennis allowed the appellant's appeal against deportation under the Immigration (EEA) Regulations 2006. The SSHD appeals to the UT on these grounds:-
 1. The assessment of the appellant as credible and reliable (paragraph 14) without reflection on (a) his past failure to abide by the law and (b)

his past failure to comply with the requirements of e.g. community orders is inadequately reasoned and/or irrational.

2. Despite the appellant's (poor) future prospects of lawful employment being put in issue by the respondent (paragraph 6) there is no finding on this in the determination. The only observation made is that the appellant was previously a qualified person (paragraph 19). This amounts to inadequate reasoning.
 3. ... the decision should be set aside.
3. Mrs Saddiq said that the Judge gave no reason for arriving at his decision in spite of the appellant's persistent past criminality, leading to 18 convictions; wrongly found in his favour on the key issue of rehabilitation, when there was no independent corroborative evidence that he was drugs-free; and wrongly reached his conclusions in the absence of any social work assessment, sentencing remarks or other report (although she accepted that failure to provide such materials attached to both sides).
 4. I noted in the determination at paragraph 2 that the appellant sought an adjournment to obtain a "social circumstance report", which the Judge refused, and observed that it could therefore not be said that the appellant was unwilling to provide such information.
 5. Mr Craigie said that the Judge appreciated all the background circumstances which led to the respondent's view and acknowledged that his determination might be thought unusual, given the "thoroughly unsatisfactory criminal history" (paragraph 14), but was entitled to reach his own assessment having had the benefit of the oral evidence from the appellant.
 6. I indicated that I preferred the submissions for the appellant.
 7. Contrary to the SSHD's grounds, the factors adverse to the appellant are all recognised in the determination. Without evidence of reform, and at face value of the information on paper, the Judge would have agreed that deportation was warranted on grounds of public policy or public security. Overwhelmingly, his decision is based on the view he formed of the appellant with the advantage of having heard directly his oral evidence, including the cross-examination.
 8. While personal reform from drug abuse and crime is easily expressed but not easily achieved, there is no rule that judges may never find appellants to be reformed characters, on their own evidence. The Judge was entitled to conclude that this appellant was "sincere both in recognition of the consequences of his past criminality both to others and himself and of the necessity to put this unhappy chapter of his life behind him, still in his youth, and to engage in the opportunities available to him." His reason is plainly stated. The respondent disagrees, but shows no error of law.
 9. Mrs Saddiq did not elaborate on the matter of the quality of the appellant's employment prospects, which does not bear on the outcome.

10. The determination of the First-Tier Tribunal shall stand.
11. No anonymity order has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

Upper Tribunal Judge Macleman
25 August 2015