



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

Appeal Number: IA/12468/2014

**THE IMMIGRATION ACTS**

**Heard at Glasgow**

**Decision and Reasons**

**26 June 2015**

**Promulgated  
On 21 July 2015**

**Before**

**MR C M G OCKELTON, VICE PRESIDENT  
UPPER TRIBUNAL JUDGE DEANS**

**Between**

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

Appellant

**and**

**MUHAMMAD KASHIF**

Respondent

**Representation:**

For the Appellant: Ms R Petterson, Senior Home Office Presenting Officer.

For the Respondent: Mr G Rea, of Maguire Solicitors

**DETERMINATION AND REASONS**

1. The respondent (whom we shall call the claimant) is a national of Pakistan. He appealed to the First-tier Tribunal against the decision of the Secretary of State refusing to issue him a residence card on the basis of his marriage to Weronika Grzegorzczyn, a national of Poland exercising treaty rights here, on the basis that his marriage was a marriage of convenience. Judge Mozolowski allowed the appeal. The Secretary of State sought and obtained permission to appeal to this Tribunal on the basis that her findings of fact disclosed errors of law. We heard submissions from Ms Petterson. We did not need to call on Mr Rea.

2. We have examined the judge's notes of the evidence before her and the submissions made by the Presenting Officer. There is no doubt, as her determination reveals, that the judge took into account the concerns expressed by the respondent. But the judge had other concerns, made apparent at the hearing. One was that the parties were interviewed in English, that they had some difficulties in English, and that they were not invited to confirm as accurate any record of what they had said at the interview. The second was that some of the questions asked appeared to the judge to be if not inappropriate, at any rate difficult to answer from the different cultural background of the appellant in particular. She summed up her conclusions as being that the Secretary of State's concerns about the relationship between the claimant and his wife derived principally from the interviews, but that, for the reasons indicated, she was not prepared to give so much weight to the interview evidence. There is no doubt that she regarded the matter as quite close, but concluded in the end, that the marriage was not a marriage of convenience.
3. The judge is not shown to have ignored any material that she ought to have taken into account, nor to have taken into account any material that she ought to have ignored. The Presenting Officer does not appear to have made specific submissions on the matters of concern that we have identified. The judge, however, had the benefit of oral evidence from both the parties to this marriage. In the circumstances we are wholly unable to say that the conclusion she reached was one which was not open to her. The fact (if it be a fact) that a different judge might have reached a different conclusion is, of course, wholly beside the point. Judge Mozolowski's determination discloses no error of law and must stand. The Secretary of State's appeal is therefore dismissed.

C. M. G. OCKELTON  
VICE PRESIDENT OF THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM CHAMBER  
Date: 13 July 2015