



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

Appeal Number: IA/16373/2014

THE IMMIGRATION ACTS

Heard at Manchester

On May 13, 2015

Determination

Promulgated

On May 19, 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR ZEESHAN HUSSAIN SYED
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Barnfield, Counsel, instructed by Cartwright
King Solicitors

For the Respondent: Mr Harrison (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellant is a citizen of Pakistan. The appellant entered the United Kingdom as a Tier 1 (Post study) migrant on December 27, 2012 with entry clearance until March 6, 2014. On March 4, 2014 he applied for a variation of his leave to remain but the respondent refused this application on March 19, 2014 and at the same time a decision was taken to remove him under section 47 of the Immigration, Asylum and Nationality Act 2006.

2. The appellant appealed to the First-tier Tribunal under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 on April 4, 2014.
3. On June 19, 2014 Judge of the First Tier Tribunal Heynes (hereinafter referred to as the "FtTJ") heard the appeal and in determination promulgated on June 24, 2014 he refused the appeal.
4. The appellant lodged grounds of appeal on July 1, 2014 and on November 6, 2014 Judge of the First-tier Tribunal Landes refused permission to appeal finding there was no arguable error in law. Grounds of appeal were renewed to the Upper Tribunal and expanded upon and Deputy Upper Tribunal Judge Mandalia found there was an arguable error in law in respect of two of the new grounds of appeal. Permission to appeal was restricted to these two grounds.
5. The matter came before me on the above date and the appellant was in attendance and the parties were represented as set out above.
6. The First-tier Tribunal did not make an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to alter that order.

SUBMISSIONS

7. Mr Barnfield submitted the FtTJ failed to have regard to the Skype conversations that had been placed before him. The FtTJ identified the evidence he had taken into account and the Skype conversations did not form part of that evidence. The Skype conversations confirmed that although they were not together the marriage was subsisting and if the FtTJ had considered the evidence it may have altered his view on the evidence. He agreed that the article 8 argument would have no merit unless his first ground succeeded.
8. Mr Harrison relied on the Rule 24 letter dated April 1, 2015. He submitted the FtTJ made numerous adverse findings at paragraphs [18] and [19] and the fact the FtTJ did not make any reference to the conversations was not material because the evidence did not address the FtTJ's other findings and the conversations and calls only covered a ten day period.
9. Mr Barnfield invited me to have regard to the fact the appellant had been unrepresented at the First-tier hearing and ample evidence had now been prepared for any future hearing.

FINDINGS

10. This was an application to vary the appellant's leave based on the fact that he was now married. The appellant was unrepresented at the hearing but the FtTJ had documents that had been submitted by the appellants and oral evidence to consider.
11. At paragraph [11] of his determination the FtTJ detailed some of the documentary evidence but he did not specifically refer to the Skype conversations. He also made no reference to these anywhere else in his determination. It is this failure that forms the cornerstone of the appeal before me.

12. The background to this marriage was that the appellant joined a dating agency in October 2013 and he met the appellant in the middle of November 2013. According to the application form the relationship began when they underwent a religious ceremony on January 12, 2014.
13. The FtTJ rejected the appellant's claim. He accepted people could marry quickly and that a newly married couple may choose to live apart but he concluded that it was unreasonable, five months after their marriage, for the parties to still be living apart. The appellant continued to work in London and his wife lived and worked in Manchester. The FtTJ was unimpressed with the evidence and concluded the appellant had chosen to live in shared accommodation and work in London. The FtTJ further noted there was a lack of supporting evidence from family members attaching little weight to the bills and bank statements.
14. The evidence of the Skype calls and communication covered the period November 16 to November 25, 2013. In other words it covered the first ten days of them speaking and texting. Most of the "chat" is untranslated. Nothing within the translated part of the chat demonstrated any relationship and of course the parties did not start an actual relationship until January 12, 2014.
15. There was no evidence that the FtTJ had any regard to this evidence but in truth there is nothing within this short period that would have altered the adverse findings made. The document demonstrated there was contact but little else. The document did not address any of the concerns raised by the FtTJ.
16. I therefore find the failure by the FtTJ to demonstrate he had regard to the Skype evidence is not material. As the first ground failed there is no merit to the second ground.

DECISION

17. There was no material error. I uphold the original decision.

Signed:

Dated:

Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT FEE AWARD

The substantive appeal under the Immigration Rules failed and I therefore make no fee award.

Signed:

Dated:

Deputy Upper Tribunal Judge Alis