



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

Appeal Number: OA/01147/2015

THE IMMIGRATION ACTS

**Heard at Glasgow
on 21 July 2016**

**Decision & Reasons Promulgated
on 25 July 2016**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**Najmus Sehar MINHAS
(ANONYMITY DIRECTION NOT MADE)**

Respondent

For the appellant (the SSHD): Mr M Matthews, Senior Presenting Officer

No appearance for the respondent

DETERMINATION AND REASONS

1. The parties are as above, but the rest of this determination refers to them as they were in the FtT.
2. The SSHD appeals against a decision by FtT Judge Debra H Clapham, promulgated on 21 December 2015, allowing the appellant's appeal against refusal of entry clearance.
3. On 16 June 2016 the UT issued notice of the hearing on 21 July 2016. Copies were sent both to the solicitors then representing the appellant and directly to her in Pakistan.

4. By letter dated 22 June 2016 those solicitors advised the UT that they had withdrawn from acting and that they had advised her urgently to seek new representation.
5. Nothing has since been heard from the appellant or from anyone acting on her behalf.
6. Mr Matthews advised that the SSHD had heard from the appellant's sponsor, her former husband, that the marriage had broken down, and had written to solicitors enquiring whether the case was to be withdrawn. He exhibited a copy of the decree of divorce from the SSHD's file. He suggested that the case might be resolved on the basis of withdrawal by the appellant. Alternatively, he submitted that the decision on the merits should be reversed.
7. The provisions of rule 17 do not fit the case, because the UT has a record only of solicitors withdrawing from acting, not of withdrawal of the case.
8. The appellant has not responded to the notice of hearing or to the advice that (if she wished to proceed) she should seek other representation urgently. The notice of hearing stated:

'If you neither attend nor submit representations, the tribunal may conclude that you are no longer interested in pursuing, or as the case may be, opposing this appeal.'
9. I conclude that the appellant offers no opposition to the SSHD's grounds of appeal to the UT. Those grounds have merit. The judge erred by saying that the evidence offered by the SSHD was generic only. It was generic in parts (as it was bound to be) but in other parts it was specific to the certificate which the SSHD found to have been dishonestly obtained. The error was material. The FtT decision is **set aside**. It falls to be remade in the UT, based on the evidence which was led in the FtT. That evidence was enough to make out the SSHD's case. There was nothing to consider on the other side.
10. The decision is remade thus: the appeal, as originally brought by the appellant to the FtT, is **dismissed**.
11. No anonymity direction has been requested or made.



21 July 2016
Upper Tribunal Judge Macleman

