



**Upper Tribunal  
(Immigration and Asylum Chamber)  
HU/03104/2015**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at FIELD HOUSE**

**Decision & Reasons**

**On 5<sup>th</sup> October 2017**

**Promulgated**

**On 25<sup>th</sup> October 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE G A BLACK**

**Between**

**MR HASAN M.R. ALNAZER  
(NO ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr R Solomon of Counsel

For the Respondent: Mr C Avery (Home Office Presenting Officer)

**DECISION AND REASONS**

1. I shall refer to the parties as “the Appellant” and “the Respondent”. This is the Appellant’s appeal. I consider whether or not there is a material error of law in the decision First-tier Tribunal (Judge Housego) (“FTT”) promulgated on 20<sup>th</sup> January 2017 in which he dismissed the appellants’ appeal on human rights grounds following a refusal of his application for LTR on private and family life grounds.

**Background**

2. The appellant is a citizen of Palestine. He is married and claims that he has a genuine and subsisting relationship with his wife and step daughter. His wife has mental health problems. The family would not be able to live in Palestine. The appellant lived in that country for only 8 years and has not returned since. He experienced discrimination and harassment.

### **FTT decision**

3. In a lengthy decision and reasons the FTT set out the law and case law in detail at [9-27] and its consideration of the evidence started at [61]. The FTT found that the appellant had no relationship with his current wife's daughter. It found that the Appellant had entered into serial marriages (three) for the purpose of obtaining immigration status in the UK, and that he failed to establish a genuine relationship with his current wife [78]. The FTT acknowledged however that the wife had entered into a genuine relationship. The FTT took into account the needs and rights of his wife in assessing proportionality [81]. The FTT concluded that the Appellant would be able to return to the West Bank and that there were no significant obstacles to his reintegration there. The FTT did not consider whether or not there were insurmountable obstacles to family life as it found that the appellant's relationship with his current wife and step child was not established. There were no compelling circumstances to justify consideration of Article 8 ECHR.

### **Application for permission to appeal**

4. In lengthy grounds set out in 15 paragraphs, which I summarise, it was contended that
  - (i) the FTT failed to consider the background country material in assessing the test of very significant obstacles and or to make findings on that background material.
  - (ii) the FTT failed to give adequate reasons for finding that the appellant did not meet that test under paragraph 276ADE and could return to the West Bank [87] and wrongly concluding that those grounds were not argued [75].
  - (iii) the FTT failed to properly consider Article 8, Ex.1(b), S.55 (best interests of child) and section 117B(6) Nationality, Immigration & Asylum Act 2002.
  - (iv) the FTT failed to reach findings on the oral and written evidence given by the appellant's wife and a friend Mr B Hammad on material matters [35-50].

### **Permission granted**

5. Permission was granted on all grounds by UTJ Martin who found that there were arguable grounds that the FTT failed to consider the background material and /or that material referred to in the skeleton argument dealing with the situation in Palestine. UTJ Martin observed that the decision was lengthy and the use of inflammatory language did not help. Further that the appellant should not be overly hopeful.

### **Rule 24 Response**

6. There was no Rule 24 response.

### **Submissions**

7. Mr Solomon expanded on the detailed grounds for permission and submitted that the failure to consider the country material had infected all the findings made by the FTT. Further the failure to consider and make findings as to the Appellant's current relationship precluded the FTT from making proper findings as to that relationship. The amended skeleton argument set out all the issues raised in the appeal including those grounds which the FTT wrongly stated had not been argued. The skeleton argument set out the background material which showed that the humanitarian conditions were poor and that there was an absence of health care for the mentally ill.
8. Mr Avery acknowledged that the FTT had made no specific reference to the country material in the decision and reasons, but submitted that this did not mean the FTT had not considered it. In any event it was not material to the Appellant's human rights claim and the Appellant had not raised any evidence to show that he would suffer more than those persons already living in Palestine. Any error was not material. The findings as to the relationship with his wife and step daughter were sustainable.

### **Discussion and conclusion**

9. The decision and reasons is lengthy. It is clear to me that there is no reference to the country background information regarding the situation in Palestine which is relevant to an assessment of "very significant obstacles" and/or "insurmountable obstacles". Furthermore the FTT specifically stated that the only grounds pursued in the appeal was the marriage and parental relationship [75]. This is not the case as the skeleton argument sets out the Appellant's case in respect of paragraph 276ADE(1)(vi) and clearly referred to the background material which is appended to the skeleton argument [30]. This is a human rights appeal and not a protection claim, nevertheless the FTT ought to have referred to the background material in reaching its findings and conclusions when considering whether there were very significant obstacles to the appellant's integration in Palestine. I find that this amounts to an error in law.
10. In considering the Appellant's relationship with his current wife the FTT took the view that the Appellant's wife entered into a genuine relationship but that the Appellant was solely motivated by his immigration status [77] having regard to his immigration history. However, the FTT went on to conclude that Article 8 family life was engaged [80] and took into account the rights of the appellant's wife in assessing proportionality. In order to consider and evaluate Appendix FM & Ex.1 the FTT ought to have made proper findings as to the nature and extent of the relationship. To that extent the FTT ought to have made findings on the evidence of the Appellant's wife and friend Mr Hammad which dealt with the marriage together with documents and photographs.

11. I am satisfied that the FTT gave adequate reasons for finding that there was no parental relationship as between the appellant and his step daughter, based on the poor knowledge displayed by the Appellant when giving evidence [72]&[88]. Consequently the grounds linked to the parental relationship EX 1(a), best interests of the child and section 117B(6) fall away. I am not persuaded that the FTT erred by any misdirection regarding the meaning of “insurmountable obstacles” as the FTT incorporated “very serious hardship” into its consideration [81].
12. I have read the background material and references made in the skeleton argument as to the country conditions in Palestine. The appellant was entitled to have his appeal decided with reference to all the grounds argued. The failure to consider the background material is a significant error. In addition there are the concerns as to the FTT’s failure to make proper findings as to the relationship with the current wife notwithstanding that it found the appellant to be lacking in credibility and as having in the past entered into marriages for immigration reasons. There was no proper evaluation of the evidence of the current relationship by the FTT. Taken together I am just persuaded that the errors have infected the decision as a whole and are material. I concur with the observations made by UTJ Martin that the somewhat inflammatory language used by the FTT throughout the decision did not assist. Accordingly I set aside the decision and the matter is remitted for hearing de novo.

**Decision**

13. There is a material error of law in the decision which shall be set aside. The appeal is to be remitted for hearing de novo at Hatton Cross (excluding Judge Housego).

Signed Date  
24.10.2017

GA Black  
Deputy Judge of the Upper Tribunal

NO ANONYMITY ORDER

NO FEE AWARD

Signed Date 24.10.2017

GA Black  
Deputy Judge of the Upper Tribunal