



IAC-FH-LW-V1

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

Appeal Number: IA/15894/2015

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 4 May 2017**

**Decision &  
Promulgated**

**On 2 June 2017**

**Reasons**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**MUHAMMAD SAJJAD HUSSAIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr A Gondal, Berkshire Law Chamber

For the Respondent: Ms A Fijiwala, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant has permission to challenge a decision of First-tier Tribunal (FtT) Judge Hussain sent on 20 May 2016 dismissing his appeal against the respondent's decision to refuse to grant leave to remain as a spouse. The judge's reason for dismissing the appeal was that he did not accept that

the appellant and his spouse were in a genuine and subsisting relationship. The grounds contend that the judge's decision was legally wrong because he should not have concluded that the appellant's evidence was not credible since (1) at paragraph 22 he had accepted that the appellant had "given plausible explanations"; and (2) despite referring to "numerous inconsistencies" his decision ultimately relied on just one inconsistency relating to the purchase of the couple's wedding rings. These alleged shortcomings amounted to a failure to give adequate reasons and the imposition of too high a burden on the appellant.

2. I do not find the grounds of appeal are made out. It is convenient to first of all address the second ground of appeal. In this regard, it will assist to first set out the judge's "Findings":-

"20 The sole issue in this case is whether the appellant's marriage to his British citizen spouse is genuine and subsisting. As will be apparent from above, the respondent suggests that it is not because of discrepancy between the appellant and his wife at interview and also entry clearance they have documents addressed to them at addressers which they made no mention of on the application form.

21 The appellant has sought to explain the inconsistencies in their evidence at interview. His explanation is set out in his witness statement and that of his wife. It is unnecessary to repeat that evidence here. He has also tried to explain the reason why a different address appeared on their telephone bill namely that both and his wife forgot to ask the relevant authority to note a change in their address.

22 Whilst the appellant has given plausible explanations for the inconsistencies in the interview evidence and the documents showing different addresses, having looked at the totality of the evidence, I have come to the conclusion that the appellant has not discharged the burden of proof on him.

23 The reason for this is that when the appellant and his wife gave evidence, separately before the present tribunal, numerous inconsistencies emerged as will be noted above. These inconsistencies seem to be in the same vain [sic] as those emerging at interview. In my view it will be wrong to conclude that simply because the appellant's wife has a short memory that she would get so much of the evidence wrong. For example, it cannot be the case that the appellant said that his wedding ring was a surprise whereas his wife said that they both went and bought it together. She even named the Jeweller. Such detail is significant events (sic) in a couple's life and I cannot see there being a reasonable explanation as to how they differed so much in their evidence.

- 24 Having noted the inconsistencies I have also taken into account the areas of agreement. From this I deduced that the appellant and his partner are known to each other, which is why they have some familiarity with some aspects of their lives. However on the fundamental issue of whether they are a genuine couple, I have come to the conclusion that the discrepancies looked at in an overall context are far too many to overlook. I conclude therefore that the appellant has not discharged the burden of proving that he is in a genuine and subsisting marriage with his claimed partner.”
3. From the above it is first of all clear that the judge did not simply rely on the discrepancies in the evidence of the appellant and his wife as to the purchase of her wedding ring. Paragraph 23 refers to “numerous inconsistencies as will be noted above”. Earlier in the decision the judge identified the inconsistencies as being those identified on by the respondent in the refusal letter and then at paragraphs 5-18 summarised the oral evidence of the appellant and his wife. Whilst paragraphs 5-18 are primarily a summary of their evidence the judge did at several points identify lack of consistency. Thus at paragraphs 12, 13 and 14 he identified that the appellant’s wife “changed the position” as regards who attended their wedding, why the husband’s family did not attend and whether her husband went to the airport with her when she left to visit relatives in the U.S. Further, it is apparent when reading paragraphs 5-18 together with the respondent’s reasons for refusal that the judge was taking into account their attempted explanations for inconsistencies identified by the respondent.
  4. The judge saw and heard the appellant and his wife and afforded them every opportunity to explain the identified inconsistencies. The judge can be criticised for not identifying in his “Findings” section each and every inconsistency relied on, but reading his decision as a whole the reader is left in no doubt as to what those were. From paragraph 23 it is also abundantly clear that the judge was not satisfied considering the evidence as a whole that the couple had given satisfactory explanations about them. At paragraph 24 the judge said “I have come to the conclusion that the discrepancies looked at in an overall context are far too many to overlook”.
  5. It is also notable that in the course of reaching this conclusion the judge was very careful to consider the evidence as a whole and in a balanced way. Thus at paragraph 24 he notes that he took account of “areas of agreement” and felt able in light of them to accept that the appellant and his partner are known to each other.
  6. It is also clear that in assessing the appellant’s appeal the judge applied the correct burden and standard of proof and he had indeed correctly identified what they were at paragraph 19.

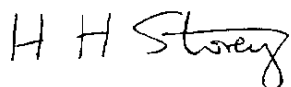
7. Turning to ground (1), this rests in my judgement on a misreading of what the judge meant in paragraph 22. Mr Gondal submitted that in this paragraph the judge contradicted himself because on the one hand he accepted the appellant had given “plausible explanations” yet on the other hand rejected them. The force, however, of Mr Gondal’s submissions depends on construing the adjective “plausible” to mean “credible”. There is no support for such a reading either in ordinary language or in higher court authority. A statement can be plausible but not credible: see MM(DRC-plausibility) Democratic Republic of Congo [2005] UKIAT 00019. Plausibility is essentially concerned with whether something claimed accords with known facts. Plausibility is insufficient in itself to establish that what was claimed is to be believed. Establishing credibility requires assessment of the evidence as a whole by reference to a number of established indicators (such as internal and external consistency and sufficiency of detail), not just plausibility.
8. Not only is Mr Gondal’s suggested reading of the meaning of plausibility at odds with ordinary meaning and higher court authority, it is also clear from the judge’s decision read as a whole that he was most definitely not using “plausible” to mean “credible”.

### **Notice of Decision**

9. For the above reasons I conclude that the judge did not materially err in law and accordingly his decision to dismiss the appeal must stand.
10. No anonymity direction is made.

Signed:

Date:31 May 2017



Dr H H Storey  
Judge of the Upper Tribunal