



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

Appeal Numbers: PA/09736/2016  
PA/09917/2016

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 5 June 2017**

**Decision &  
Promulgated  
On 12 July 2017**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MONSON**

**Between**

**(1) HM (PAKISTAN)  
(2) US (PAKISTAN)  
(ANONYMITY DIRECTION MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellants: none

For the Respondent: Ms Z. Ahmad, Specialist Appeals Team

**DECISION AND REASONS**

1. The appellants have appealed from the decision of the First-tier Tribunal (Judge Iain Ross sitting at Taylor House on 18 October 2016) dismissing their appeals against the decision of the Secretary of State to refuse to

grant them international or human rights protection on account of their claimed sexual orientation. They claimed to have entered into a genuine marriage in the UK as a gay couple. The First-tier Tribunal found that the marriage was one of convenience, and that neither of the appellants was gay. The First-tier Tribunal made an anonymity direction, and I consider it is appropriate that the appellants continue to be accorded anonymity for these proceedings in the Upper Tribunal.

### **The Reasons for the Grant of Permission to Appeal**

2. Designated Judge Macdonald refused permission to appeal as he considered that the First-tier Tribunal Judge had given clear and coherent reasons for concluding that the appellants were not gay. On a renewed application to the Upper Tribunal, a Deputy UT Judge granted the appellants' permission to appeal as she considered that the First-tier Tribunal Judge might have applied too high a standard of proof.

### **Withdrawal**

3. The appellants instructed new solicitors on 1 June 2017, who wrote to the Upper Tribunal on 2 June 2017 to say that their clients wished to withdraw their appeals.

### **Discussion**

4. Paragraph 17 of the Tribunal Procedure (Upper Tribunal) Rules 2008 states that a party may give notice of the withdrawal of its case, or any part of it: (a) at any time before a hearing to consider the disposal of the proceedings; or (b) orally at a hearing.
5. Sub-paragraph 2 of paragraph 17 provides as follows:

“Notice of withdrawal will not take effect unless the Upper Tribunal consents to the withdrawal except in relation to an application for permission to appeal.”
6. As was pointed out by Resident Senior Immigration Judge Southern (as he then was) in an explanatory memorandum, the rule does not enable a party to withdraw his appeal. The rule only enables a party to give notice of the withdrawal of its case on appeal, or any part of that case.
7. I treat the appellants' request as a request to withdraw their case, and I grant them permission to do this. The consequence is that their error of law challenge is not made out, and their appeals from the decision of the First-tier Tribunal are dismissed.

**Notice of Decision**

The decision of the First-tier Tribunal did not contain an error of law, and accordingly the decision stands. These appeals to the Upper Tribunal are dismissed.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge Monson