



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

Appeal Number: HU/05254/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 31 October 2018**

**Decision & Reasons
Promulgated
On 6 November 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

**NOVELETTE RICHARDS
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representative

For the Respondent: Ms N Willocks-Briscoe, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from the decision of First-tier Tribunal Judge Clarke promulgated on 9 August 2018. The appellant Ms Novelette Richards is a Jamaican citizen born on 1 November 1974.
2. The appellant was not represented before the First-tier Tribunal nor is she represented today before me. There was an application to adjourn this case made by her legal advisors, L.A.K. Legal, on the basis that her partner would not be able to attend today due to his illness. Upper Tribunal Judge Pitt rejected that application primarily because the issue

for me to decide today is one of error of law, something not requiring the attendance of the appellant's partner.

3. Ms Richards confirmed that she content to be unrepresented and was eloquent in pursuing the written grounds of appeal which were settled by her lawyers and advancing her case that I should set aside the decision of Judge Clarke. She recognises that it is not for me to come to a fresh decision based upon the evidence but to analyse the decision of the judge and consider whether there is any error of law in that decision and to set it aside accordingly.
4. In short Judge Clark was not convinced on the evidence led by the appellant that there was a genuine and subsisting relationship between herself and the gentleman I have referred to as her partner, Mr David Packer. The grounds of appeal seek to challenge the decision on the basis that it was against the weight of the evidence. However, the assessment of weight in relation to the assessment of evidence is entirely for the First-tier Tribunal.
5. The ground at paragraph 2 suggests insufficient weight was given to the fact that the appellant was referred to as next of kin in various medical documentation and listed as spouse on one occasion. Whether that is the case or not cannot be determinative of whether there is a genuine and subsisting relationship.
6. The ground at paragraph 3 deals with the address at [~] where it is said that they lived. The judge says there is no evidence that the appellant lived in [~]. It is now suggested that documentation in the medical records supports this assertion. I was not taken to any evidence to support this assertion, but in any event merely living at the same address is not proof of a genuine and subsisting relationship.
7. The ground to paragraph 4 refers to discrepancies in relation to dates in particular whether the relationship is alleged to have begun in 2014 and 2013. The grounds suggest that the appellant should not be prejudiced by what is said to be an error on the part of the Home Office in noting the wrong date. I have been shown a handwritten letter from Mr David Packer, which was before the First-tier Tribunal, in which he clearly states that the relationship commenced in late 2013. That date emanated from the appellant and her partner. The judge's decision cannot be impugned because she properly identified and took account of inconsistencies in the evidence led by the appellant.
8. The ground at paragraph five makes reference to the appellant spending time in the Derby area in the past, before the situation changed due to Mr Packer's ill health. Again, whether or not the appellant spent time in Derby is not probative of the existence of a genuine or subsisting relationship. The judge took all the evidence into account and came to a clear and sustainable conclusion.

9. The ground at paragraph 6 deals with what is likely to happen to Mr Packer in the event that the appellant is returned to Jamaica. This ground, like the others, amounts to no more than a challenge to the evidential conclusions to which the judge came and to which she was entitled to come.
10. Having given this matter the fullest consideration and having listened with care to everything that Ms Richards has said to me this morning, I can find no error of law in the determination made by the First-tier Tribunal Judge. The conclusion which this judge reached was perfectly open on the evidence. Whilst there is a natural sympathy for Mr Packer who is in poor and worsening health, and Ms Richards may well have cared for him, the existence of a genuine and subsisting relationship was a factual issue for the judge to determine on the evidence. Her decision is not amenable to challenge.

Notice of decision

- (1) Appeal dismissed
- (2) No anonymity direction is made.

Signed *Mark Hill*

Date 5 November 2018

Deputy Upper Tribunal Judge Hill QC