



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: OA/00970/2012

THE IMMIGRATION ACTS

Heard at Field House
24 July 2018

Decision & Reasons Promulgated
22 August 2018

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

ABDUL SAMI KHOKHAR

Appellant

and

AN IMMIGRATION OFFICER, GLASGOW AIRPORT

Respondent

Representation:

For the Appellant: No appearance.

For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer.

DETERMINATION AND REASONS

1. This matter is, as its file number shows, of some antiquity. There was a judicial review challenge to the Tribunal's refusal to grant permission to appeal. It is not exactly clear how the delays have arisen, but I note that there appears to have been some difficulty with service of the First-tier Tribunal's decision, so that the notice of appeal to this Tribunal followed further service in 2015.
2. The proceedings before the Tribunal on 24 July 2018 had been listed as for directions only. The appellant's representative had submitted detailed written submissions

asking (amongst other things) for the appeal to be allowed. After hearing my views on the merits of the grounds, Mr Bramble agreed that the hearing be treated as the substantive hearing of the appeal.

3. The appellant arrived at Glasgow airport with a visa which was in the circumstances to be treated as leave granted to him before his arrival. On arrival, the Immigration Officer examined him and determined that he should not be admitted. He refused him leave to enter and directed his removal, which took place. It is clear from paragraph 2A(1), (2) and (8) of Schedule 2 to the Immigration Act 1971, and paragraph 321A of the Immigration Rules, that the appropriate procedure was cancellation of leave. The failure to cancel the leave means that the decision was erroneous in law, as explained by the decision of the Court of Appeal in Boahen [2010] EWCA Civ 585. The appeal falls to be allowed.
4. The appellant's representative's written submissions seek other relief. It would be quite inappropriate to direct that the appellant be admitted to the United Kingdom: his visa has long since expired and his present circumstances are entirely unknown. There is no basis for a grant of costs as also sought by the representative.
5. If the appellant seeks to travel to the United Kingdom he will no doubt need to obtain entry clearance anew. Both the results of the examination at Glasgow airport (which was itself wholly lawful) on the one hand, and the fact that his appeal has been allowed on the other hand, are factors which will fall to be taken into account.
6. For the reasons given above, the appellant's appeal is allowed.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 7 August 2018.