



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: DA/00102/2018

THE IMMIGRATION ACTS

Heard at Glasgow
on 21 December 2018

Decision & Reasons Promulgated
On 10 January 2019

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

PIOTR WEDA

Respondent

For the Appellant: Mr A Govan, Senior Home Office Presenting Officer
For the Respondent: Mr G Rea, of Rea Law, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this determination refers to them as they were in the FtT.
2. This decision is to be read with:
 - (i) The SSHD's deportation decision dated 31 January 2018.
 - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
 - (iii) The decision of FtT Judge Green, promulgated on 26 April 2018.

- (iv) The SSHD's grounds of appeal to the UT, stated in the application for permission to appeal dated 8 May 2018.
- (v) The grant of permission by the FtT, issued on 1 November 2018.
3. Mr Govan submitted along the lines of the grounds. He said that the judge gave undue weight to the absence of offending since the appellant was last released from custody, and since he came to the UK, which was only a short period, to be put in context against a history of serious offending over many years. There was no relevance in the appellant being trusted to look after his 3-year-old great niece, when his past offending had nothing to do with children. There was no explanation of why the misleading letter in the appellant's name (C1 of the SSHD's inventory, paragraph 27 of the decision) had been found not to damage his case.
4. I was not persuaded that the grounds disclosed anything amounting to error of law, such that the decision of the FtT ought to be set aside.
5. I saw some force in the SSHD's point that it was difficult to see why the judge found it significant that the appellant was recently trusted with the care of a young child. His offending does not relate to the domestic setting, and does not obviously imply that, unless reformed, he would "not be allowed to live under the same roof".
6. That, however, that is only one among several reasons. The judge, having explicitly noted the seriousness and persistence of offending, founded upon:
- no offence since last released, and since coming to the UK in March 2016;
 - no reason to come to SSHD's attention, but for the possibility that this was due to recent proactive checking of records;
 - support in the proceedings, and in respect of bail, from his niece, her fiancée, and his employer;
 - release on and compliance with bail;
 - support from witnesses aware of his criminal past; and
 - the appellant's oral evidence, found to be candid and reliable.
7. At [27], discounting the misleading letter, the judge noted that it purported to be in the appellant's name, but was unsigned; that it was written in English, which he does not speak; and that the appellant denied having ever seen it. The SSHD does not show that those reasons are legally inadequate.
8. The judge had the advantage of hearing directly from the appellant and other witnesses. He explained why, based primarily on that evidence, he found the appellant to pose no risk of re-offending, and hence no present threat. His observation at the end of [26], "I do not see how the respondent could possibly believe that the appellant poses a present threat", may sound rather emphatic, in a case which looks more finely balanced; but even if it was capable of being resolved either way, the grounds resolve into no more than insistence and disagreement.

9. The decision of the First-tier Tribunal shall stand.
10. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

21 December 2018
Upper Tribunal Judge Macleman