



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

Appeal Number: DA/00535/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 27 March 2019**

**Decision & Reasons Promulgated
On 13 June 2019**

Before

**THE HONOURABLE LORD UIST
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
UPPER TRIBUNAL JUDGE GLEESON**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR ALEKSEJS [A]
(NO ANONYMITY ORDER)**

Respondent

Representation:

For the Appellant: Ms Alice Holmes, Home Office Presenting Officer

For the Respondent: Mr Sean F Ell, Counsel, instructed by Paragon Law

DECISION AND REASONS

This is an appeal by the Secretary of State in the case of Aleksejs [A] against the decision of the First-tier Tribunal dated 22 January 2019 allowing an appeal against the decision of the Secretary of State to deport the claimant under the European Economic Regulations 2016, Regulation 27.

The grounds of appeal as stated by the Judge of the First-tier Tribunal who granted the application for permission to appeal assert in essence that the judge materially erred in failing to give adequate or sustainable reasons but

allowing the appeal in light of findings of fact he had made and the totality of the evidence before him. The grounds of appeal are set out in detail in the reasons for appealing given by the Secretary of State.

In her oral submissions, Ms Holmes for the Secretary of State said that the judge did not properly take on board all of the evidence before him. In particular, she pointed out that the claimant had been in employment when he committed the index offence and she asserted that he had not broken all links with those who had had a bad influence on him because one of them was his brother. She said that he had “parked” the point about not having admitted his guilt and that there was a flawed basis for his findings.

In his Rule 24 response and in his oral submissions, Mr Ell, Counsel for the claimant, said that there was no identifiable error of law in the determination of the judge, who had applied the law correctly, made clear findings and provided sufficient reasons for doing so. He submitted that the grounds advanced by the Secretary of State constituted mere disagreement with the conclusions reached by the First-tier Tribunal Judge.

We are satisfied that the judge correctly identified the test which he had to apply in considering this appeal. At paragraph 24 he stated:

“Having considered all the circumstances in the round, I find on balance that it is not proportionate to deport the claimant. On the balance of probabilities, I do not consider him to pose a genuine, present and sufficiently serious threat to the fundamental interests of society. The factors which tip the balance are the evidence that he has secured gainful employment, is in a stable relationship with his partner, has no significant ties to Latvia and, as stated in the OASys assessment, does not pose a serious threat to society.”

In our view, there is no error relating to the evidence in the factors which the judge identified as tipping the balance in the claimant’s favour. They were, as he said, first of all that he has secured gainful employment. The Judge was aware that the claimant had been in employment at the time he committed the offence, but what the judge was pointing out was that since his release from prison he had once again secured gainful employment.

The second point which the claimant made was that he was in a stable relationship with his partner. There is no challenge to that.

The third point, that he had no significant ties to Latvia, is not challenged and the fourth point, that, as stated in the OASys assessment, he does not pose a serious threat to society, is not challenged either by the Secretary of State. Accordingly, the judge, having correctly identified the test which he had to apply, clearly identified the factors based on the evidence which tipped the balance in favour of the claimant.

We agree with Mr Ell that, in essence, all that the grounds of appeal amount to are a disagreement with the ultimate findings on the evidence made by the judge.

There having been no error of law and no irrationality on the part of the judge, we dismiss this appeal.

Notice of Decision

The Secretary of State's appeal is dismissed.

No anonymity direction is made.

Signed **Judith AJC Gleeson**
2019
Upper Tribunal Judge Gleeson

Date: 10 June