



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

HU/04949/2018

THE IMMIGRATION ACTS

Heard at Glasgow
on 7 March 2019

Decision & Reasons Promulgated
On 11 March 2019

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

RAGAZ [A]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

No appearance by or for the appellant
For the respondent, Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant sought to remain in the UK, based on his relationships with a partner and with her child. The respondent refused his claim by letter dated 24 January 2018. FtT Judge Debra H Clapham dismissed his appeal by a decision promulgated on 17 October 2018.
2. The appellant's grounds of appeal to the UT are set out in his application filed with the FtT on 31 October 2018. Their main theme is that the FtT failed to assess the best interests of the child.

3. On 8 February 2018 the UT issued notice to the appellant and to his solicitors (then on record) of the hearing on 7 March 2019 at 10 am.
4. The notice issued to the appellant has not been returned.
5. On 4 March 2019 the appellant's solicitors advised the UT that they were no longer acting for him.
6. By 1pm on 7 March 2019 there was no appearance at the hearing centre, and no communication to the UT, by or for the appellant.
7. Mr Govan confirmed that the last address for the appellant on the respondent's records is the same address as on UT records, and that the respondent had received no recent communication from him.
8. It is the appellant's responsibility to notify tribunals and the respondent of any change of address.
9. The hearing proceeded in absence of the appellant.
10. The appellant's grounds are based on legal generalisations, not on evidence about the child's best interests which was before the FtT.
11. The grounds fall back at [10-12] on a duty on the tribunal and on the respondent to investigate and to tender evidence about the child's best interests. That point is not well taken. It was for the appellant to bring the evidence to make his case, and for the judge to make her decision on that evidence.
12. The FtT accepted, as conceded by the respondent at the hearing, that there was family life among the appellant, his partner and her son, but it was obviously rather weak, as explained at [98 - 99]. The appeal did not lie directly under the immigration rules, but their terms were the starting point in assessing the human rights claim. The respondent found the case to fall a long way short of the terms of the rules. The judge does not deal with those issues point by point, but even on the concession made, the case still fell significantly short of the rules.
13. The judge set out the oral evidence from the appellant and his partner in some detail. The appellant said that the child called him "daddy"; the child went to bed by himself; he took the child to school, and played with him; and the child's father sees him once a week, or every two weeks [45-53]. His partner said that her son adored the appellant; her son has calmed down since they met; they played and spoke together; her son called him "dad"; she and the appellant took him to school; and he has finished primary school [60-66].
14. At [102] the judge observed that the only matter in favour of the appellant was a letter from a doctor, which went to an improvement in the health of his partner, but the judge saw no basis for the conclusion that the appellant's presence resulted in that improvement, and said it might also

be due to her child's improving behaviour, although that would be speculative. At [103], she turned to the child and to the argument that his behaviour had improved due to the appellant's presence. She found it significant that in a report on the child, written in 2016, at a time when the appellant claimed to have formed the relationships on which he relied, there was no mention at all of the appellant.

15. The child appears always to have lived with his mother, and to have an ongoing relationship with his father, although the appellant sought to play that down. The appellant sought to maximise the period over which he has had a part in the child's life, and the extent of his involvement, but there was nothing to show that he had brought major benefit to the child.
16. There was evidence from which the FtT, if it had been more specific, might have found that the child was likely to miss the appellant, for a time and to an extent, if he was no longer part of his life. There was nothing by which the FtT might have held that the absence of the appellant would be significantly detrimental, even in the short term, to the child's interests.
17. The grounds do not show that the making of the decision of the FtT involved the making of any error on a point of law, so that decision stands.
18. No anonymity direction has been requested or made.



7 March 2019
UT Judge Macleman