



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

Appeal Number: HU/25251/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 27 January 2020**

**Decision & Reasons Promulgated
On 10 February 2020**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

**MR M A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This appeal came before the Upper Tribunal for a case management hearing following a somewhat lengthy history.
2. In a decision and reasons promulgated on 15 June 2018 the Upper Tribunal found an error of law in the decision of the First-tier Tribunal, who had purported to allow the Appellant's appeal on the very narrow basis that he should be permitted to remain pending the outcome of contact proceedings in relation to his son in the Family Court. The hearing to re-make the decision in the Upper Tribunal was then listed on 11 March 2019, but was adjourned due to the fact that Family Court proceedings remained

ongoing. Correspondence was received from the Appellant's solicitors on a number of occasions but on 15 October 2019 they wrote to the Upper Tribunal stating the Appellant's family law matter was due to be heard on 28 and 29 November and to ask for time to receive the order before listing the appeal. A request was made subsequently on 5 December 2019, asking for the appeal not to be listed earlier than 24 January 2020 due to the Christmas holidays.

3. At the Case Management hearing there was no appearance by or on behalf of the Appellant. A telephone call was made to the Appellant's representatives, Malik & Malik, who stated that they remained on record but had unfortunately overlooked the hearing notice in relation to the hearing and requested to have a telephone case management hearing, to which request, given the passage of time, I acceded.

Hearing

4. It was established that all parties had had sight of the order of the Family Court Order of Recorder Verdan QC following a final hearing on 28 November 2019 whereby the court ordered inter alia:

"7. There shall be no direct contact between the father and the child.

8. The order dated 27th March 2017 for weekly Skype contact between the father and the child is discharged.

Indirect contact

9. The father may have indirect contact with the child by sending letters, cards, small gifts and/or occasional photos no more than once a month. The mother shall once a month show the child any letters, cards, small gifts and/or occasional photos that the father sends".

5. There were then further directions as to the manner in which indirect contact might take place via a PO Box and a prohibited steps order preventing the Appellant from removing the child from the jurisdiction, with a penal notice attached.
6. At [13] of the Order it is made clear that personal service of the order was given to the Appellant as he was present in court and represented by Counsel. He confirmed he understood the terms of the order.
7. The Appellant's solicitors confirmed that they had had sight of the order and acceded to the Upper Tribunal's proposal that the appeal proceed to be finally determined without the need for a further hearing, given that the sole issue was the level of contact between the Appellant and his minor son.

Decision

8. In light of the final Order of the Family Court ruling that there should be indirect contact only, there was no further basis upon which the Appellant could seek to remain in the UK based on the need to participate in the Family Court proceedings.
9. For these reasons, with the consent of both representatives, I re-make the decision dismissing the Appellant's appeal.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Rebecca Chapman

Date 5 February 2020

Deputy Upper Tribunal Judge Chapman

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed Rebecca Chapman

Date 5 February 2020

Deputy Upper Tribunal Judge Chapman