



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2022-002098**  
**First-tier Tribunal No:**  
**EA/03361/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 12 April 2023**

**Before**

**UPPER TRIBUNAL JUDGE PICKUP**

**Between**

**SIDRA KOUSAR**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr F Ahmed

For the Respondent: Ms A Everett

**Heard remotely by video at Field House on 23 February 2023**

**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of the First-tier Tribunal (Judge Sarwar) dismissing her appeal against the respondent's decision of 23.1.21 to refuse her application for entry clearance to the UK under the Family Reunion Rules, pursuant to the Immigration (EEA) Regulations 2016.
2. In summary, the grounds assert that the First-tier Tribunal Judge (i) erred in his approach to the issue of dependency, applying the wrong legal test, failing to properly assess the evidence before the Tribunal, in particular by failing to take account of remittance slips covering a five-year period and by expecting to see further remittance slips since the period of support; (ii) made unsustainable adverse credibility findings, failing to consider the evidence in the round and provided inadequate reasoning; and (iii) failed to put to the sponsor questions on which he was unclear or otherwise failed to provide the appellant an opportunity to address those concerns.
3. Permission was granted by the First-tier Tribunal on 28.2.22, it being considered arguable that the judge (i) erred at [31] in enquiring into why the appellant

needed the sponsor's support; and (ii) at [31] criticising the appellant for only providing remittance evidence for the year of the initial application, when there is no requirement to demonstrate dependency for a particular period.

4. It was also considered arguable that inadequate reasoning was provided for rejecting the five-years of remittance slips. Although other grounds were regarded as "less compelling," permission was granted on all grounds.
5. The Upper Tribunal has received the respondent's Rule 24 response to the grounds, dated 28.3.22, which argues that the First-tier Tribunal Judge properly considered the remittance slips provided, which date back to 2015. It is submitted that as the appellant claimed to have been dependent on the sponsor since 2000, it was not unreasonable for the Tribunal to expect to see evidence in support of that assertion. It is further argued that the second ground is no more than a disagreement with the findings and does not disclose procedural unfairness or inadequate questioning.
6. By email of 13.2.23, the appellant's representatives submitted their appeal documents, but it was not clear to me that the National Bank documents were part of the appellant's bundle put before the First-tier Tribunal, which is a separate document comprising 86 pages, as referenced at [16] of the decision. They were not referred to by Mr Aziz in his submissions.
7. I heard submissions from both Mr Aziz and Ms Everett, indicating at the conclusion of the hearing that I was not persuaded that there was an error of law in the decision of the First-tier Tribunal and would dismiss the appeal, reserving my full reasons to be given in writing.
8. The issue before the First-tier Tribunal appeal was that of the appellant's dependency so as qualify as an extended family member (EFM) of her sponsoring uncle, a Dutch national exercising Treaty rights in the UK. The law in relation to the issue of dependency is clear. Both the judge in the decision and the appellant in the grounds of appeal set out the relevant principles and they need not be rehearsed here. In summary, the dependency must be genuine, and the appellant must need the material financial support of the sponsor to meet some portion of her essential needs. It was the appellant's case that she had been dependent on her uncle since 2000.
9. In relation to the first ground, Mr Aziz argued that the judge made no specific finding in relation to the remittance slips provided in evidence, but it is clear from the decision that the judge stated that they had been taken into account. In reality, the appeal turned on the credibility of the appellant and the sponsor.
10. It is clear from [21] of the decision that the judge considered all the evidence in the round before reaching any findings of fact. At [31] the judge was clear that there was no requirement for dependency to exist for any particular period and the suggestion to the contrary in the grounds cannot withstand scrutiny. At [35] the judge was also clear that dependency could be by choice. That the judge was not clear from the documents why the appellant needed the sponsor's financial support was not the judge inserting a requirement to demonstrate why support was needed but related to the credibility as to whether the appellant in fact needed the sponsor's support to meet her essential needs. The judge was entitled to consider that failure to provide adequate evidence of her financial circumstances in Pakistan rather undermined the appellant's case that she required material financial support to meet her essential needs, the burden of proving which rested on the appellant.

11. The judge raised an issue with the remittance receipts that those submitted with the initial application related only to that year. However, the judge accepted that further receipts had been submitted going back to 2015, but there were none going back to 2000, from which date the sponsor claimed to have been supporting the appellant. These concerns were not the judge making a requirement for a specific period of support, as the grounds characterise the issue, but related to the credibility of the sponsor and the claim to be financially supporting the appellant and able to continue to do so in the UK. The issue of the judge expecting some explanation for legal advice to provide only limited remittal slips with the initial application was not directly relevant to the dependency issue and I am satisfied that if there was any error in this regard, it was not material to the outcome of the appeal, given the other adverse findings.
12. In relation to the second ground, at [26] the judge confirmed that he had made a “global assessment of credibility.” Unarguably, the judge was entitled to form a view as to the credibility of the sponsor and gave adequate reasoning for adverse credibility findings, which directly impinged on the sponsor’s claim to have sponsored the appellant since 2000 and his ability to financially support the appellant in the UK. In the absence of supporting evidence, the judge was not persuaded that the sponsor had been financially supporting the appellant since 2000, and in the light of inadequate evidence as to the sponsor’s own financial circumstances, given his obligations and his receipt of state benefits, was entitled to treat the sponsor’s oral evidence “with some degree of caution where it is unsupported by other evidence.” It was the cumulation of these credibility findings that led the judge to conclude that the appellant failed to discharge the burden on her to demonstrate dependency.
13. In relation to the third ground, there was no obligation for the First-tier Tribunal Judge to question the sponsor, to seek clarification of matters of concern, or provide the (unrepresented) appellant an opportunity to respond to those concerns. It was a matter for the appellant as to how to prepare and present her case. As Ms Everett submitted, the appellant was on notice from the refusal decision, and it was not for the judge to adopt an inquisitorial function as to evidence not submitted. In any event, as I explained to Mr Aziz, the grounds do not explain whether or how the sponsor could or would have addressed such concerns. No error of law is disclosed by this ground.
14. In summary, I am satisfied that the judge applied the correct law to the facts of the case and made findings entirely open on the limited and unsatisfactory evidence, for which adequate reasoning has been provided. Nothing in the grounds demonstrates any procedural unfairness in the conduct of the appeal. No error of law is disclosed.

### **Notice of Decision**

The decision of the First-tier Tribunal did not involve the making of an error of law.

The appellant’s appeal to the Upper Tribunal is dismissed.

I make no order for costs.

DMW Pickup

Judge of the Upper Tribunal

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Immigration and Asylum Chamber  
**23 February 2023**