



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

**Case No: UI-2022-001746**  
**First-tier Tribunal No:**  
**EA/05723/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 30 April 2023**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**TAHIR MEHMOOD**  
(no anonymity order)

Appellant

**and**

**SSHD**

Respondent

*For the Appellant: Mr H Ndubuisi, of Drummond Miller, Solicitors*  
*For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer*

Heard at Edinburgh on 12 April 2023

**DECISION AND REASONS**

1. FtT Judge Bell dismissed the appellant's appeal by a decision promulgated on 24 January 2022.
2. The appellant sought permission to appeal to the UT on grounds, in summary, as follows:
  - (1) no explanation for excluding the sponsor's maintenance of the family home as a contribution to essential needs;
  - (2) no consideration of evidence of the nature of the appellant's income, being seasonal and minimal;
  - (3) stating at [21] that no schedule of income and expenditure was provided, when such a schedule was item 17, p.182, of the appellant's bundle;
  - (4) irrational to find 3 months of food and utility receipts insufficient to show essential needs; and

(5) failure to treat a determination by FtT Judge McTaggart, allowing the appeal of the appellant's brother, EA/00481/2021, as a starting point on credibility of the sponsor and on accommodation as an essential need; divergent conclusions "on the same accepted facts".

3. On 8 April 2022, FtT Judge Athwal granted permission on all grounds, but particularly on the view that there was arguable error by inadequacy of reasoning regarding the property and by not considering the schedule.
4. In course of submissions, Mr Mullen came to accept that there were material errors in two respects.
5. While the FtT was not bound to accept the schedule as establishing the case, it was bound to consider it. The decision could not fairly be read as finding the schedule deficient, when it was not mentioned, and the absence was expressly mentioned.
6. The FtT was also not bound to follow the decision of another Judge, and a finding that the sponsor was credible would also not dictate that the appeal should be allowed. The facts were neither accepted nor identical. However, the appellant was entitled to an explicit explanation of why apparently similar evidence led to a different outcome.
7. In my view, those concessions were fairly and correctly made.
8. In absence of an interpreter, and as the respondent would seek to cross-examine the sponsor, it was not possible to proceed immediately to re-hear the case. It was agreed that the outcome should be as follows.
9. The decision of the FtT is set aside. It stands only as a record of what was before the tribunal. The case is remitted for a fresh hearing, not before Judge Bell.

**Hugh Macleman**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
14 April 2023