



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006245
First-tier Tribunal No:
EA/15247/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 11 April 2023

Before

UPPER TRIBUNAL JUDGE HANSON
DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

AMINU ISSAKA
(NO ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Issaka, Sponsor.

For the Respondent: Mr C Bates, a Senior Home Office Presenting Officer.

Heard at Birmingham Civil Justice Centre on 14 February 2023

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Parkes ('the Judge'), promulgated on 22 November 2022, in which the Judge dismissed the appellant's appeal against the revocation of the residence card granted to him by the appellant. The date of the revocation decision is 13 September 2021.
2. The Judge sets out details of upon whom the burden of proof lies, initially upon the appellant, but where deception is alleged upon the respondent, and the correct legal self-direction that the standard of proof is on the balance of probabilities [2].
3. The appellant is a citizen of Ghana born on 18 December 1998.
4. It is fair to say there has been a lot of confusion in relation to applications made by members of this family unit, and their related appeals, which are likely to have arisen as a result of the failure by the relevant Entry Clearance Officer to link the individual cases.

5. The decision to revoke the residence card was taken as it was said that a birth certificate and MoneyGram documents were false/forged. Document Verification Reports (DVR) were considered by the Judge as was the submission and evidence provided on the appellant's behalf in support of his case that the documents are genuine.
6. Having assessed the material the Judge writes at [16 - 17]:
 16. That other money transfers may be genuine does not alter the evidence that some of the documents, as set out at page 33, did not match the company's records. Having regard to the contents of the DVRs, the time and opportunity of the Appellant to address the points raised and the detail of where the concerns lie I am satisfied that the evidence is sufficient to discharge the burden of proof and that the documents are false.
 17. In addition to the provision of such documentation, the absence of evidence that might have supported the Appellant's contention or evidence explaining that the Appellant is a wholly innocent victim of unauthorised activities by the agent I am satisfied that the Appellant, who is an adult, bears responsibility for what was submitted.
7. The Judge concluded at [19] that the observations in the Refusal Notice that the submission of false documents undermined the claims made about the appellant's circumstances justified the revocation of the residence card, leading to the appeal being dismissed.
8. Permission to appeal was sought on a number of grounds and granted by another judge of the First-tier Tribunal.
9. The assertion the Judge had not applied the correct standard of proof is without merit. The grounds make reference to the decision of the Tribunal in RP [2006] UKAIT 00086 at [14], emphasising the phrase that an allegation of forgery needs to be established to a high degree of proof by the person making the allegation. The grounds challenge the Judge's statement at [2] that the standard of proof is the balance of probabilities.
10. There is a material difference between the concept of 'a high degree of proof' and the standard of proof. The high degree of proof to support an allegation of forgery refers to the need for cogent evidence of quality being required to establish that the balance of probability test is met. The grounds are arguing semantics rather than the reality in claiming that because the Judge wrote 'standard of proof' rather than saying 'high degree of proof' he has erred in law. In RP (proof of forgery) Nigeria [2006] UKAIT 00086 the Tribunal said that an allegation of forgery needs to be proved by evidence and by the person making it. The procedure under s108 of the 2002 Act remains available to respondents. A bare allegation of forgery, or an assertion by an Entry Clearance Officer that he believed the document to be forged can in these circumstances carry no weight. The Tribunal treats a document as forged only on the basis of clear evidence before it. That is the approach taken by the Judge who required the allegation of false documents to be proved by appropriate evidence provided by the respondent. The Judge found that he could put weight upon the two DVR's relating to the false documents as sufficient proof. There is nothing legally wrong or irrational in such an approach on the basis of the evidence.
11. The grounds also make reference to [6 - 9] of the appellant's skeleton argument and it being accepted there were discrepancies in the DVR. Whilst there has possibly been an error in recording the numbers of the birth certificate and relating to MoneyGram transfer receipts, Mr Bates submitted those documents

were sent to MoneyGram for comparison against their records and their response confirmed they were not genuine transfer receipts.

12. We find in relation to the MoneyGram receipts that insufficient evidence was provided to the Judge to establish that little or no weight should be put upon the Secretary of State's evidence in the DVR's. The Judge considered the issue in relation to the signatory on the birth certificate and even if the submission had been made by the appellant's legal representatives in the course of his arguments relying on skeleton argument, that was a matter clearly considered by the Judge and did not satisfy the Judge that the respondent had not discharged the relevant burden of proof to the correct standard, for which adequate reasons are given.
13. The grounds are misleading when they imply the Judge reversed the burden of proof, as clearly he had not. The Judge knew where the burden of proof lay and the correct standard of proof, which he applied.
14. Whilst the appellant may disagree with the Judge's conclusion, especially as Mr Issaka clearly wants all his children to be able to come and live with him in the UK, we do not find that the grounds establish legal error material to the decision to dismiss the appeal.

Notice of Decision

15. There is no legal error material to the decision of the First-tier Tribunal. The decision of the Judge shall stand.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

16 February 2023