



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002650

FTT No: EA/15111/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 21 August 2023**

Before

UPPER TRIBUNAL JUDGE LANE

Between

Sajid Mehraj Akhter

(NO ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Not present or represented
For the Respondent: Mr McVeety Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 15 August 2023

DECISION AND REASONS

1. The appellant, who was born on 10 February 1977, appeals against the respondent's decision dated 7 October 2021 refusing his application under the EU Settlement Scheme (EUSS). The First-tier Tribunal, determining the appeal on the papers on 17 May 2022, dismissed the appeal. The appellant now appeals with permission to the Upper Tribunal.
2. The appellant was served with a notice of hearing by email on 20 July 2023. There is nothing on the Tribunal file to indicate that the notice failed to reach the appellant and the last email address which he had notified to the Tribunal. I find that the appellant has failed to excuse or explain his absence and that it is in the interests of justice to proceed in his absence.
3. Granting permission, Upper Tribunal Judge Blundell wrote:

It is arguable that the judge failed to take account of evidence which was provided by the appellant, as described at [3] of the renewed grounds of appeal. It appears from the decision that this material was not placed before the judge.

I have not been provided with a copy of that material, or with the evidence of postage and delivery which was said to have been provided with the application for permission to appeal. The contents of the 'case bundle' which was provided by the appellant on 9 February 2022 is not set out in the application for permission. I therefore direct that the appellant is to provide a copy of that evidence (the bundle and the proof of delivery) to the Upper Tribunal and the Secretary of State within 10 days of the date on which this order is issued.

4. As at the date of the initial hearing on 15 August 2023, no documents have been received from the appellant by either the Upper Tribunal or the respondent.

5. Dismissing the appeal, First-tier Tribunal Judge Hall wrote:

8. The burden of proof is on the appellant and the standard of proof is a balance of probability.

9. I have considered all the documentation that has been submitted in this appeal. The respondent has provided a bundle indexed A-E comprising 30 pages. The appellant has not submitted a bundle of documents. The appellant has not submitted any witness statements. The appellant did not want his appeal heard at an oral hearing so I have not had the benefit of hearing any oral evidence.

10. The appellant did not address the specific reasons for refusal in his grounds of appeal. He has not submitted any documents after submitting his notice of appeal. The appellant has failed to address the reasons for refusal. He has not provided evidence to indicate the dates that he has been resident in the UK. Therefore the appeal must fail.

6. Given (i) the failure of the appellant to comply with the directions of Upper Tribunal Judge Blundell and (ii) the fact that I have no reason to doubt what First-tier Tribunal Judge Hall states unequivocally at [9] , I have concluded that the documents referred to by the appellant in the grounds of appeal were not before the judge when he determined the appeal and promulgated his decision. Accordingly, I find that the judge reached findings which were available to him on the evidence. His decision is free from legal error as pleaded or at all. Consequently, the appeal is dismissed

Notice of Decision

The appeal is dismissed

Lane

C. N.

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 15 August 2023