



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-001591
First-tier-number: EA/00415/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 13th of December 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

Rukshana Bashir
(NO ANONYMITY ORDER MADE)

Appellant

and

Entry Clearance Officer

Respondent

Representation:

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

Heard at Manchester Civil Justice Centre on 27 September 2024

DECISION AND REASONS

1. The appellant, a citizen of Pakistan, appeals to the Upper Tribunal against a decision of the First-tier Tribunal which dismissed the appellant's appeal against a decision of the Entry Clearance Officer refusing the appellant entry clearance under the Immigration (European Economic Area) Regulations 2016. The appellant was residing in Pakistan and asserted that she was materially dependent on her brother in the United Kingdom, a Spanish national. The judge did not accept that there was a relationship of dependency.
2. The United Kingdom sponsor did not attend the initial hearing. The solicitors had come off the record on 23 September 2024. The office at Field House emailed the solicitors on that day to ask whether the email and postal addresses of the appellant and the United Kingdom sponsor had changed. The solicitors replied the same day with the details and

confirmed that the appellant and sponsor had been copied into the email correspondence. The hearing date was prominently displayed shown throughout that correspondence. In the circumstances, I am satisfied that the United Kingdom sponsor was aware of the hearing and has chosen not to attend. Accordingly, I found it in the interests of justice to proceed.

3. Granting permission, Upper Tribunal Judge Norton-Taylor wrote: 'As set out in the grounds at some length, it is arguable that the judge erred in her approach to the issue of dependency, both in terms of the evidence before her and, at least to an extent, the relevant legal test. I note the absence of a Presenting Officer at the hearing and the apparent absence of any specific adverse credibility findings by the judge in relation to the sponsor's own evidence.'
4. Mr Bates, Senior Presenting Officer, submitted that the judge had not erred in law. The judge had, in the absence of a presenting officer at the First-tier Tribunal hearing, been under no obligation to accept the evidence of the appellant 'at face value.' The judge had quite properly analysed the documentary evidence and had legitimately concluded that that the receipts adduced in evidence by the appellant did not prove the existence of dependency. The judge had noted that funds had been received by the appellant from the sponsor but it was plainly open to the judge to find that the payments did not establish to the necessary standard of proof that the appellant's essential needs were being met.
5. In the absence of the sponsor, I have considered the documents very carefully. I find that I agree with the submissions of Mr Bates for the reasons he gave. The First-tier Tribunal had (i) considered the relevant evidence and (ii) had reached findings of fact which were open to it. As such, the grounds amount to nothing more than a disagreement with findings available to the judge. Accordingly, I dismiss the appeal.

Notice of Decision

The appeal is dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 22 November 2024