



**Upper Tribunal
Immigration and Asylum Chamber**

Appeal Number VA.06465.2013

THE IMMIGRATION ACTS

**Heard at: North Shields
On: Friday 11th April 2014**

Before

**Judge Aitken
Deputy Chamber President (HESC)**

Between

Mrs Sabriya Qader Qader

Appellant

and

Entry Clearance Officer

Respondent

For the Appellant: Ms S Rogers
For the Respondent: Mr Kingham (Home Office Presenting Officer)

Decision

1. This matter appears before me following a grant of permission to appeal from Designated Judge Baird in the following terms:

"1. Permission is sought to appeal against the determination of First-tier Tribunal Judge Holmes issued on 10 December 2013, dismissing the Appellant's appeal against the decision of the Respondent made on 25th July 2012 to refuse entry clearance as a family visitor under paragraph 41 of HC395 (as amended).

2. *The grounds seeking permission are rather verbose and scathing of*

the conclusions reached by Judge Holmes but it seems to me that in essence what is submitted is that Judge Holmes erred in taking account of irrelevant factors, failed to give inadequate reasons for his conclusions and improperly found that the Sponsor had gained British Citizenship by deception.

3. The Entry Clearance Officer refused the application because he was not satisfied that the Appellant had provided satisfactory evidence of her circumstances in Iraq. A bundle of documents was then submitted with the grounds of appeal. Judge Holmes devotes much of the Determination to the immigration history of the Sponsor, the Appellant's son. He considers whether it is reasonable to expect the Sponsor to travel to Iraq to visit the Appellant. This is not a requirement of the Rules. He does find at paragraph 20 that the Sponsor had been guilty of deception in 2002, a deception that resulted in him being granted Exceptional Leave to remain in the UK. Judge Holmes also relied on a spelling error in a document purportedly from Suleimaniyah University but this document was a certified translation and the alleged error was in the spelling of Suleimaniyah which in my experience has appeared in several different versions over the years. No or insufficient reasons are given for rejecting the other evidence relative to the Appellant's circumstances. There was for example objective evidence before the Judge of the lack of reliance on banks in Iraq. I consider it to be arguable that Judge Holmes took account of irrelevant factors relating to the Sponsor to the extent of indulging in speculation and failed to give proper account to the evidence before him relative to the Appellant himself.

4. All the grounds are arguable."

2. Ms Rogers relied upon her written grounds which take issue with the factual findings of the Tribunal and in particular argued that whilst the First Tier Tribunal judge had made many findings about the sponsor the core of the application had been lost. The case of ***Tanveer Ahmed v SSHD [2002] Imm AR 318*** it was suggested was relevant only to asylum cases.
3. Mr Kingham argued that it was a sound determination based on the evidence and no irrelevant features were considered.
4. It was accepted that the point made by the Designated Judge in granting leave about the spelling mistake being in a translation is incorrect, and in fact the First Tier Tribunal judge was correct in pointing out the spelling error in what purports to be an original document from Suleimaniyah University.
5. The First Tier Tribunal judge made comprehensive findings about the sponsor, and whilst it is correct to say he was not the appellant, he was an

important part of the appellant's case, not only was he the person that it was intended to visit, but the judge was also considering whether the sponsor might be able to visit the appellant as part of his consideration of Article 8, thus this was not irrelevant as argued. The sponsor had a larger role however in this case, because he was offering explanations in respect of the documentary and written evidence of the appellant put before the First Tier Tribunal. An example of this can be found at paragraph 18 where he is recorded as giving evidence about bank accounts and employment. The judge makes specific reference to the importance of the appellant's evidence to the appeal at paragraph 19.

6. It is suggested in the grounds that the judge cannot be emphatic about the appellant being unable to recall what he said in an interview several years ago at paragraph 13, and it is correct this is perhaps not well expressed, but the general point is clear, that the judge prefers the evidence of the interview record from the time and the general evidence about the issue to a bald assertion from the appellant several years later.
7. The point made with regard to the case of *Tanveer Ahmed* is incorrect, it is a case indicating that documents must be considered carefully in the round with all of the other evidence, it is often applied in refugee cases, but the applicability of the principle is general. Its use in these circumstances cannot be faulted.
8. The Judge came to clear findings based upon the evidence that was before him after a consideration of all of that evidence, those findings may make uncomfortable reading about matters from what the appellant may have considered was the distant past, but all of the findings are properly placed in context and the decision is logical and properly reasoned. There is therefore no error of law within the decision and the appeal is dismissed.

Decision

The appeal is dismissed.



Judge Aitken
Deputy Chamber President (HESC)

Wednesday, 14 May 2014