



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/07831/2014

THE IMMIGRATION ACTS

Heard at Field House
On 19th August 2015

Decision & Reasons Promulgated
On 27th August 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE SAINI

Between

MR I.K.
(ANONYMITY DIRECTION MAINTAINED)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Turner, Counsel instructed by Rashid & Rashid Solicitors

For the Respondent: Mr S Kandola, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Tipping dismissing his appeal against the Secretary of State's decision to refuse his asylum, humanitarian protection, Article 3 and Article 8 ECHR claims and to set removal directions for the Appellant's country of origin, Afghanistan.
2. First-tier Tribunal Judge Tipping dismissed the Appellant's appeal on all grounds.

3. The Appellant was granted permission to appeal by Upper Tribunal Judge Doyle by way of a decision which gave a limited grant of permission on the Appellant's grounds 8, 9 and 10 (as numbered in his written grounds of appeal). The grounds may be summarised as taking issue with the lawfulness of the judge's assessment of the Appellant's Article 8 ECHR private life outwith the immigration rules.
4. I was not provided with a Rule 24 response from the Respondent.

Submissions

5. In advancing the Appellant's grounds of appeal, Mr Turner submitted *inter alia* that ground 8 is a statement of law and did not point to any particular error. He further submitted that ground 9 is an overview of the relevant law but again does not take issue with the decision itself. The final ground, ground 10, he submitted is a focused challenge on Article 8 however Mr Turner in short indicated he was in difficulty in advancing that ground as at §30, the judge found that Article 8 was engaged and that the Appellant entered the UK as a child and attended school but had no friends and there was no evidence of community activity, and that he had considered proportionality. Mr Turner realistically submitted that all he could arguably submit was that although the judge had referred to the Appellant's age, he had not had regard to the Appellant's age and his integration in the UK when reaching his conclusions. Ultimately, Mr Turner submitted this was a rationality challenge.
6. I then heard submissions from Mr Kandola who submitted in reply *inter alia* that the only area of dispute is the matter of proportionality. The decision in *Razgar* had been explicitly mentioned at §30 and Article 8 private life had been considered at §§29-32. The Appellant had not demonstrated the decision was irrational or perverse and the judge had considered the appeal as generously as he could.
7. In response to my query regarding the Appellant's agreed date of birth, Mr Turner accepted that there had been an age assessment conducted in 2009 which stated that the Appellant was born on 15 July 1995, and which had not been challenged however the Appellant was an adult at the date of the First-tier hearing.
8. I asked both parties at the close of submissions whether they had anything further to add and both confirmed that they did not.
9. At the close of submissions, I indicated that I would reserve my decision which I shall now give. I do not find that there was an error of law in the decision such that it should be set aside. My reasons for so finding are as follows.

No Error of Law

10. As summarised by Mr Turner, notwithstanding the grounds of appeal which are largely bare statements of law, this appeal is in essence a rationality challenge to the decision of the First-tier.

11. It is clear from reading the decision that the judge considered that Article 8 ECHR private life outwith the rules was engaged and went on to consider that private life in terms of the evidence that was before him. Therefore, the grounds are incorrect in that they criticise the judge for failing to consider Article 8 when this is precisely what he has done.
12. The main issues raised by the Appellant are that of his age and integration; however as Mr Turner rightly stated, the judge was aware of the Appellant's age and that he arrived in the UK as a child and in my assessment this was properly factored into the decision as a whole. The judge explicitly accepted the private life that the Appellant had established in the UK "despite the lack of evidence" therefore, Mr Kandola's submission that the consideration of Article 8 private life was generous, despite there being a paucity of evidence of it, is a valid one.
13. I find that the judge at §§29-32 of his decision has drafted a careful and comprehensive consideration of the Appellant's Article 8 private life, the findings upon which were rational and open to him to make, based on the evidence before him. It is clear that all relevant matters were taken into account and there is no omission as alleged.
14. Therefore, in conclusion, the grounds do not reveal an error of law such that the decision should be set aside.
15. In the circumstances the appeal to the Upper Tribunal is dismissed and the decision of the First-tier Tribunal is affirmed.

Decision

16. The appeal to the Upper Tribunal is dismissed.

Signed

Date

Deputy Upper Tribunal Judge Saini