



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/07408/2014

THE IMMIGRATION ACTS

**Heard at Birmingham
On 12 November 2015**

**Decision & Reasons Promulgated
On 18 December 2015**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

RKN

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer

For the Respondent: Miss E Rutherford, Counsel, instructed by French & Co,
Solicitors

DECISION AND REASONS

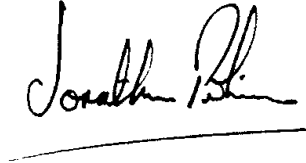
1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant, the present Respondent. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I make this order because the decision concerns the welfare of children who are entitled to privacy.

2. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal allowing the appeal of the respondent, hereinafter "the claimant", against a decision of the Secretary of State on 31 January 2014 to refuse to vary her leave to enter or remain.
3. The point of substance in the case is that the claimant had, on his version of events, established himself as a father figure in a family with a woman who was not free to marry him in law but who was clearly committed to him and was the mother of, I think, a total of four children, two of whom were teenage boys.
4. It is perfectly plain from reading the papers that the claimant's partner has had a very difficult time and has suffered a great deal of humiliation and ill-treatment at the hands of her husband both before they became estranged and afterwards. Little imagination is needed to understand how that background could make it very difficult for her to be a successful mother, particularly where two teenage boys are concerned. Social Services were involved and initially were a little concerned about the claimant, not because he had done anything particularly wrong, (there is no suggestion that misbehaved in any way towards the children), but because he was an unknown quantity. It is quite plain from the reports that he has proved himself a worthy addition to the family. He has helped his partner and the children significantly. It is quite obvious that this is the reason that the First-tier Tribunal allowed the appeal.
5. The point is that this is a man who, although not satisfying the ordinary requirements of the Rules, was the father figure in a family and it would have been unduly harsh to have disrupted that family further by removing him to India or indeed Hong Kong which was a theoretical possibility.
6. In places the judge's determination might be thought to be rather telegraphic although, for my part, I do not see it as a virtue to plough through endless lists of Rules to explain why they do not apply.
7. It was common ground that the claimant could not satisfy the ordinary requirements of the Rules and the application could only succeed on an exceptional basis. When the determination is read carefully the reasons for allowing the appeal in the first place are perfectly plain and they are sound in law.
8. Mr Mills had had an opportunity to consider the case and the skeleton argument carefully and he felt unable to advance the appeal before me. This, in my judgment, was no more than an entirely proper professional response. It is not seemly for Presenting Officers to waste time on hopeless causes and

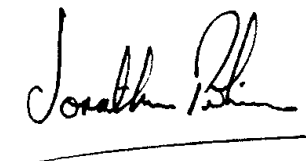
particularly not when the victims would be young people, still children, who we are told have to be given primary consideration.

9. It follows therefore that I dismiss the Secretary of State's appeal.

Signed
Jonathan Perkins
Judge of the Upper Tribunal

A handwritten signature in black ink, appearing to read "Jonathan Perkins", written over a horizontal line.

Dated 15 December 2015

A handwritten signature in black ink, appearing to read "Jonathan Perkins", written over a horizontal line.