



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

Appeal Number: AA/08725/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 4 May 2016**

**Decision & Reasons  
On 29 July 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**MR OMAR RAFAS  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Omar Rafas in person

For the Respondent: Ms A Brocklesby-Weller, Senior Presenting Officer

Interpreter present is: Ms Salwa Ashi

Language: Arabic – Moroccan dialect

**DECISION AND REASONS**

1. The Appellant seeks an adjournment of the hearing today on the issue of whether an error of law was made by First-tier Tribunal Judge Telford in the judge's decision dated 17 December 2015 whereby he dismissed the appeal against the Respondent's decision.

2. An appeal was made against that decision, settled by Counsel on 23 December 2015, and permission to appeal was given by Designated First-tier Tribunal Judge Zucker on 15 January 2016 in which he decided that the only ground that demonstrated any potential error of law was that “it is arguable that the Appellant’s Counsel was inadvertently misled into making no submissions on Article 8 ECHR” and “this ground is arguably consistent with the judge’s notes”.
3. A further application of 30 January 2016 was made on behalf of the Appellant seeking to renew the grounds associated with ground 1, essentially founded upon a Refugee Convention claim which the judge had rejected.
4. By letter of 1 February 2016 the position remained that the Respondent’s representatives were Coram Children’s Legal Centre.
5. Notice of hearing was given but Coram Children’s Legal Centre by letter dated 17 March 2016 informed the Upper Tribunal that they were no longer acting for the Appellant.
6. They confirmed the Appellant’s address at [Harrow]. They wrote to the Home Office Presenting Officers’ Unit and it is reasonable to infer that they also notified the Appellant that they were no longer acting.
7. At a hearing said to be on 21 March 2016 Deputy Upper Tribunal Judge Saini adjourned the hearing because of the late notice, as it was put, of Coram Children’s Legal Centre withdrawing but also that it was not clear if the Appellant had received the new notice of hearing, bearing in mind he did not attend but also his given address was not the address to which such notice of the hearing on the 21<sup>st</sup> March had been sent.
8. For some reason which is not relevant the file shows that Deputy Upper Tribunal Judge Saini was led to believe that the Appellant was at a

completely different address in Harrow in Middlesex and that may have played a part in his thinking as to why the Appellant did not appear. Irrespective of that, the fact was that the grounds of appeal gave the [Harrow] address which was the address to which notice of a hearing had been sent for 26 February 2016.

9. The Appellant must have received notice for today's hearing because he wrote seeking an adjournment.
10. Coram Children's Legal Centre wrote again to the Tribunal on 27 February 2016 in which they confirmed to a Mr David Robinson, a caseworker with the London Borough of Harrow, that they would not be attending and the reason they gave was:

"... just to confirm (I have checked with Omar that it is ok to let you know) that I stopped acting for him because I couldn't get hold of him and without his instructions and being able to re-assess him for legal aid I couldn't continue to represent him. I do not have the capacity to take on Omar's case just now. I have also told Omar that he can make a request to the Tribunal to adjourn his case whilst he looks for representations"

This was signed by a Miss Freeman of Coram Children's Legal Centre.

11. Thus, when she writes in effect that she had stopped acting for the Appellant that can only relate back to the events of the middle of February 2016. In the circumstances therefore I take into account particularly that since before or on 17 March 2016 the Appellant, who is being in broad terms cared for by the London Borough of Harrow, has been in the position to seek other legal representation. As of today none has been identified save that the firm of solicitors, Lawrence Lupin & Co, have indicated in general terms that they would look at the Appellant's file and consider whether they would act.

12. The overriding objective of the Tribunal Procedure (Upper Tribunal) Rules 2008 is to secure proceedings can be dealt with fairly, avoiding delay, enabling persons, where practicable, to take part in proceedings, and dealing with the issue of adjournment so that no injustice arises in the circumstances of the case nor was it otherwise unfair. Having considered this matter it seemed to me that the grounds of appeal do not need presentation by a legal representative. In the circumstances I decided that the fair, just and timely consideration of these grounds meant that they should now be dealt with. Whilst the Appellant was not in a position to make arguments on the legal issues, I was satisfied that the right course for the timely and fair disposal of this challenge lay in dealing with the matter today.
13. Accordingly, the application for adjournment is refused because of the brief and uncomplicated dispute involved.
14. Ground 1 essentially engages with errors of law arguments based around the adequacy of the assessment of the case. I find the grounds are essentially a disagreement with the findings of fact which the judge was entitled to make.
15. As to the Article 8 ECHR claim, quite simply the case file contains nothing from the Appellant's former representatives to support a claim of 'exceptional circumstances' which justified looking at the matter outside of the Rules. For it was clear that the Appellant could not meet the requirements of the Immigration Rules. There was nothing before me to show that before the judge there was evidence to justify a consideration of Article 8 outside of the Rules.
16. Accordingly, having looked at the potential merits it seemed to me that there is nothing in the nature of challenge to the judge's decision that disclose any error of law.

17. I find the Original Tribunal made no error of law.

**NOTICE OF DECISION**

The appeal is dismissed.

No anonymity direction is made.

Signed

Date 27 July 2016

Deputy Upper Tribunal Judge Davey