



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

Appeal Number: IA/07006/2015

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 18 January 2018**

**Decision &  
Promulgated  
On 07 February 2018**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN**

**Between**

**ABHISEK BHOWMICK  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr. H. Kannangara, Counsel instructed by Law Direct  
Immigration Solicitors

For the Respondent: Mr. C. Avery, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Grimmett, promulgated on 22 June 2015, in which she dismissed the Appellant's appeal against the Respondent's decision to refuse to vary his leave as a Tier 4 Student.

2. Permission to appeal was granted following a decision from Mrs. Justice Cheema-Grubb following the Appellant's application for judicial review. The Order states:

"It is clearly arguable that the First Tier Judge Grimmett erred when she refused the Claimant's appeal on the limited basis that the SSHD's policy of allowing 60 days for a student to find an alternative course and obtain a CAS need not have been applied to this Claimant. The Claimant's lawyers' letter of 21<sup>st</sup> January 2015 and the recitation of evidence from the hearing demonstrate that it was the Claimant himself who had informed the SSHD that he believed the college's licence had been withdrawn/ revoked."

3. The Appellant attended the hearing. I heard submissions from both representatives following which I reserved my decision.

### **Submissions**

4. At the outset of the submissions I referred to the case of EK (Ivory Coast) [2014] EWCA Civ 1517. It was agreed by both representatives, in line with this case that, in order to obtain a 60 day letter, the reason for the withdrawal of the CAS must be due to the Respondent's actions.
5. Mr. Kannangara submitted that the Appellant knew in January 2015 that the college had lost its licence. He submitted that the licence had been revoked by 21 January 2015. The decision to refuse the Appellant's application was taken on 30 January 2015. This was due to the fact that the Sponsor's licence had been revoked. However, he accepted that it was not clear from the CAS itself whether it had been withdrawn as a result of the Sponsor losing its licence or whether it was already withdrawn or invalid when the licence was revoked. He submitted that the Respondent was the only one who would know this and, following her guidance, she should have issued a 60 day letter. He submitted that the CAS indicated that the Appellant's sponsorship had not been withdrawn, only that the CAS had been withdrawn.
6. Mr. Avery submitted that, when a sponsor's licence was revoked and a CAS was withdrawn as a result, an applicant would get a 60 day letter. He submitted that there was no error in Judge Grimmett's decision. The Appellant had been inconsistent in his evidence about the circumstances around the revocation and withdrawal. He submitted that the college may have had its licence revoked, but that it did not mean that the college had not withdrawn the CAS beforehand. The application had been refused because the CAS had been withdrawn by the college. This was not an action carried out by the Respondent.
7. In response Mr. Kannangara submitted that the CAS was clear that sponsorship had not been withdrawn, and that this meant that the Sponsor had not withdrawn the CAS. The college did not have a licence,

so the CAS could not be valid. He submitted that the CAS had been withdrawn as a result of the college losing its licence.

### **Error of law**

8. I have carefully considered the decision of the First-tier Tribunal. At [6] to [8] the Judge states:

“The Appellant appeals on the grounds that “the Appellant informs us the Sponsor he obtained the CAS was revoked end of 2014” which was explained at the hearing as the Sponsor’s licence having been revoked at that time as a result of which the Appellant says he is entitled to 60 days in order to regularise his stay by making a further application as the revocation of the licence was not his fault.

The difficulty with that assertion on the part of the Appellant is that he was unable to say when the licence was revoked and indeed his oral evidence as to in what circumstances he found out about it was somewhat confused. He said to begin with that he heard the licence was revoked when the Home Office sent him the letter saying that his application had been refused although that letter refers to the withdrawal of the CAS not revocation of the licence. It was pointed out to him that his solicitor’s letter of 21<sup>st</sup> January 2015, indicates that he was aware that the college licence had been revoked at that time and he then said that the college had told him that the licence had been revoked but then he heard nothing further and so he thought it was revoked and then he received the letter from the Home Office to say that it had been revoked but the Home Office letter does not say that.

The Appellant’s application was refused because when the Secretary of State checked the Confirmation of Acceptance for Studies they found that it had been withdrawn. The Respondent’s policy to allow 60 days for a student to find an alternative course applies only when a college’s licence is withdrawn and not when a Confirmation of Acceptance for Studies had been withdrawn. The Appellant therefore cannot succeed in this appeal.”

9. Although not set out in terms as in EK, I find that the Judge has correctly set out that a 60 day letter is only issued when a licence has been withdrawn, or “revoked”, by the Respondent, as opposed to when a CAS has been withdrawn by a college.
10. The Judge finds that the Appellant’s evidence regarding how he found out that the Sponsor’s licence had been revoked, and when he found out, was not consistent or clear. The Order refers to the fact that it was the Appellant who informed the Respondent that he believed the college’s licence had been revoked. I have considered the letter dated 21 January 2015. This states that the Appellant informed his representatives that the “college he submitted his CAS from with his original application has been revoked”. There is no reference to when the college’s licence was revoked, nor how the Appellant is aware of this. I accept that this letter predates the Respondent’s decision, but it does not confirm that, up until

any revocation, the Appellant's CAS was valid. It is not proof that the CAS was withdrawn due to the revocation of college's licence by the Respondent. There has been no challenge to the record of the evidence as set out by the Judge. There is no material error of law in her consideration of this letter.

11. I have considered the CAS. This states:

"The CAS has been marked as WITHDRAWN. The details are displayed below.

WARNING - the Sponsor's licence is revoked."

Later it states "Current CAS status - WITHDRAWN".

12. The CAS indicates that sponsorship has not been withdrawn. Therefore, it was submitted, the withdrawal of the CAS had nothing to do with the college but was due to the licence being revoked by the Respondent. However the Appellant has not provided any evidence to show that this is the case, neither before the First-tier Tribunal, nor before me. Nor is it clear from the decision that this argument was put to the Judge in the First-tier Tribunal. Mr. Kannangara appeared in the First-tier Tribunal, and he has not submitted that the Judge failed to take into account this argument. If it were the case that, where sponsorship is not withdrawn but a CAS is withdrawn, this means that the withdrawal of the CAS is due to the Respondent revoking the college's licence, rather than the college withdrawing the CAS of its own accord, it is surprising that even now no evidence has been provided by the Appellant to substantiate this claim.
13. Further the Appellant did provide any evidence to the First-tier Tribunal from the college confirming that they had not withdrawn his CAS. In the grounds of appeal to the Upper Tribunal it states that he could not get any information as the college was no longer functioning, but it is not clear that this was the case in June 2015 when his appeal was heard in the First-tier Tribunal.
14. There are various other dates on the CAS, for example the "Current CAS status date", and the "expiry date" but it has not been submitted by the Appellant, either before the First-tier Tribunal or before me, that these dates are of any significance in showing why the CAS was withdrawn.
15. It was agreed at the hearing that a 60 day letter was only appropriate where the Respondent was responsible for the revocation of the CAS. The Judge correctly cited this. The Appellant did not discharge the burden of proof to show to the First-tier Tribunal that it was the Respondent who was responsible for the withdrawal of the CAS. I have given careful consideration to the letter from the Appellant's representatives, which the Judge took into account at [7]. This does not show that the CAS was withdrawn due to the revocation of the Sponsor's licence. It indicates that

the Appellant was aware that the licence had been revoked, but it does not say when, and it does not confirm that, prior to any revocation, his CAS was still valid. I find that there is no error of law in the Judge's consideration of the evidence, and she was entitled to come to a finding that the Appellant's appeal could not succeed. Even now, the Appellant has not shown that the college had not withdrawn his CAS prior to the revocation of their licence.

16. I find there is no error of law in the decision. Cogent reasons were given by the Judge for rejecting the Appellant's argument that the CAS was withdrawn due to the revocation of the licence. There was no evidence before me to support the Appellant's argument that the fact that the CAS indicated that sponsorship had not been withdrawn meant that it was not the college who had withdrawn the CAS. It is not clear that this argument was put to the Judge in the First-tier Tribunal in any case.
17. There is no material error of law in the decision.

### **Decision**

18. The decision of the First-tier Tribunal does not involve the making of a material error of law, and I do not set it aside.
19. The decision of the First-tier Tribunal stands.
20. No anonymity direction is made.

Signed

Date 5 February 2018

**Deputy Upper Tribunal Judge Chamberlain**