



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

Appeal Number: IA/19062/2014

THE IMMIGRATION ACTS

Heard at Bennett House

**Decision and Reasons
Promulgated**

On 13 May 2015

On 20 May 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE PLIMMER

Between

MOHAMMED AHMED

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Mannan (Counsel)

For the Respondent: Mr McVeety (Home Office Presenting Officer)

DECISION AND DIRECTIONS

1. The appellant is a national of Bangladesh. He has appealed against a decision of the SSHD dated 11 April 2014 to remove him from the UK.
2. The appellant appealed against this decision to the First-tier Tribunal. In a decision dated 30 October 2014 Judge J S Law dismissed his appeal under the Immigration Rules and Article 8 of the ECHR.
3. The appellant appeals with permission from Upper Tribunal Judge

Warr. In granting permission, Judge Warr made reference to an English language certificate and uncertainty regarding jurisdiction.

4. In refusing permission to appeal initially, First-tier Tribunal Judge J M Holmes observed that it is 'beyond dispute' that the appellant does not meet the Immigration Rules. He could not do so because he simply did not meet the requirement to have the requisite English language certificate.
5. Mr Mannan, who appeared before me on behalf of the appellant confirmed that Judge Holmes is correct. Both Mr Mannan and Mr McVeety agreed that there are no concerns about jurisdiction as an appeal has been submitted against an immigration decision to remove. Both representatives also confirmed that the only issue in dispute relates to Article 8.
6. Mr McVeety acknowledged that the Judge's reasoning for dismissing the appeal under Article 8 is insufficient. He was correct to do so. Judge Law has said that the decision 'cannot stand' outside the Rules under Article 8 and referred to two cases (without giving any citations) as not being supportive of the appellant's application [21]. The Judge has failed to offer any reasoning as to why the Article 8 appeal is unsuccessful. In the circumstances Mr McVeety conceded that the appropriate course was to find a material error of law and remit the appeal to the First-tier Tribunal.
7. I agree that this is the most fair and proportionate way in which to deal with this case having regard to para 7.2 of the Senior President's Practice Statements and given the nature and extent of the factual findings already made and required in remaking the decision.

Decision

8. The decision of the First-tier Tribunal contains an error of law in relation to Article 8 only. I set aside that part of the decision only.
9. The appeal is remitted to the First-tier Tribunal for a decision to be re-made on Article 8 of the ECHR.

Directions

1. Article 8 only shall be considered on the first available date before the First-tier Tribunal. TE: 2 hrs.
2. Before Friday 10 July 2015 the appellant shall file and serve an indexed and paginated bundle of all relevant documents relied upon.

Signed:

Ms M. Plimmer
Deputy Judge of the Upper Tribunal

Date: 15 May 2015