



SELF-TYPED

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

Appeal Number: OA/06740/2014

THE IMMIGRATION ACTS

**Heard at Centre City Tower, Decision & Reasons Promulgated
Birmingham
On 20 January 2016** **On 21 January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

**MR MAJID ALI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER - ISLAMABAD

Respondent

Representation:

For the Appellant: Mr A. Pipe, Counsel instructed by Wornham & Co Solicitors
For the Respondent: Mr I. Richards, Senior Presenting Officer

DECISION AND REASONS

1. The appellant appeals against the decision of the First-tier Tribunal (Judge S D Lloyd sitting at Sheldon Court on 14 January 2015) dismissing his appeal against the decision to refuse him entry clearance as the proposed civil partner of a person present and settled here, on the ground that he had not shown that he and AN were in a genuine and subsisting relationship. The First-tier Tribunal did not make an anonymity direction, and I do not consider that the appellant requires to be accorded anonymity for these proceedings in the Upper Tribunal.

The Reasons for the Grant of Permission

2. On 19 March 2015 First-tier Judge Brunnen granted permission to appeal as it was arguable that, as contended in the permission application, the judge had erred in law by not taking account of material evidence.

Reasons for Finding an Error of Law

3. At the hearing to determine whether an error of law was made out, Mr Pipe directed my attention to the documentary evidence which he said the Judge had not taken into account and/or in respect of which the judge had made findings which were demonstrably wrong. As a result of this exercise Mr Richards rightly cut short the hearing by conceding that an error of law was made out for the reasons given in the permission application.
4. As the parties are in agreement on this issue, I only propose to highlight the two most egregious errors.
5. The appellant relied on a large number of photographs depicting him and his partner together in different places. The date and location of each photograph was written in manuscript on the back. The judge held at paragraph [19] that there was nothing to confirm these dates or locations. But earlier the judge accepted that they had both travelled to Dubai at the same time in the summers of 2012, 2013 and 2014. Moreover, the appellant's bundle contained documentary evidence of hotel and flight bookings consistent with them being in the same place at the same time, and (in the case of hotel bookings) of them sharing the same bedroom.
6. The appellant disclosed a large amount of what the judge described as "electronic communications" as evidence of contact and mutual devotion. The judge held at [paragraph 23] that there was nothing which confirmed that the correspondence was between the appellant and his sponsor, and that much of it had "little of substance". In fact, there was ample evidence, both within the correspondence itself and also within the application form (which gave full details of their respective contact details) to confirm that they were communicating with each other. Further, the content was self-evidently of a potentially high probative value, as they showered each other with kisses, and generally behaved like lovers extravagantly expressing their affection for each other.
7. Accordingly, the decision of the First-tier Tribunal is unsafe, and it cannot be allowed to stand. Mr Pipe accepted that the judge had expressed legitimate credibility concerns about other aspects of the evidence, and he and Mr Richards were in agreement that the appropriate course was for there to a complete rehearing.

Notice of Decision

8. The decision of the First-tier Tribunal contained an error of law, and accordingly the decision shall be set aside and remade.

Directions

9. The appeal shall be remitted to the First-tier Tribunal in Birmingham for a de novo hearing before any judge apart from Judge D S Lloyd. None of the findings of fact of the previous Tribunal shall be preserved.

Signed

Date

Deputy Upper Tribunal Judge Monson