



Upper Tier Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00765/2015

THE IMMIGRATION ACTS

Heard at Bennett House, Stoke-on-Trent
On 19 July 2016

Decision Promulgated
On 19 July 2016

Before

Deputy Upper Tribunal Judge Pickup
Between

Hussain Pour
[No anonymity direction made]

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant: Not represented & no attendance
For the respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Robertson promulgated 13.5.16, who dismissed his appeal against the decision of the respondent to refuse him entry clearance to the United Kingdom as ZZ. The Judge heard the appeal on 15.4.16.
2. First-tier Tribunal Judge Kelly granted permission to appeal on 8.6.16.
3. Thus the matter came before me on 19.7.16 as an appeal in the Upper Tribunal.

4. There was no appearance by on behalf of the appellant. I was satisfied that the requisite notice of hearing had been served by post on 27.6.16 on the appellant at the correct address. He does not have any listed representative. There is on file no explanation for the appellant's absence. In the circumstances, I found that the overriding objective was best met in this case by proceeding to hear the case as I am permitted to do by virtue of the Tribunal's procedure rules.

Error of Law

5. For the reasons set out below, I found no error of law in the making of the decision of the First-tier Tribunal such as to require the decision of Judge Robertson to be set aside.
6. The grounds of application for permission to appeal complain that the incorrect standard of proof was applied by the First-tier Tribunal Judge and that the benefit of the doubt should be given to the asylum seeker.
7. In granting permission to appeal, Judge Kelly suggested that reading the decision as a whole fails to demonstrate that the judge applied the correct, lower, standard of proof. He found it arguable that the decision may "give the impression that too high a standard of proof has been applied and that no account has been taken of the positive role for doubt."
8. I disagree. It is clear that in reading the decision as a whole that Judge Robertson did apply the correct lower standard of proof. As pointed out in the Rule 24 reply of 29.6.16, at §12 the judge corrected stated that the burden is on the appellant and that he must show 'substantial grounds for believing' that he has a well-founded fear. This is repeated at §13, §14, §22, and §25. In particular, at §22, the judge stated that s/he was "not persuaded even on the low standard of proof applicable that the appellant was a credible witness."
9. It follows that the judge applied the correct burden and standard of proof. There is no merit in any of the grounds of appeal, they are merely a disagreement with the First-tier Tribunal Judge's decision. I am satisfied that the conclusions reached were open to the judge on the evidence and for which cogent reasons have been provided. The decision is neither perverse nor irrational.

Conclusions:

10. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



Signed

Deputy Upper Tribunal Judge Pickup

Dated 19 July 2016

Deputy Upper Tribunal Judge Pickup

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order. Given the circumstances, I make no anonymity order.

Fee Award Note: this is not part of the determination.

In the light of my decision, I have considered whether to make a fee award.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable in this case and thus there can be no fee award.



Signed

Deputy Upper Tribunal Judge Pickup

Dated 19 July 2016