



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

Appeal Number: HU/04838/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 25 April 2017**

**Decision & Reasons Promulgated  
On 4 May 2017**

**Before**

**Upper Tribunal Judge John FREEMAN**

**Between**

**MUHAMMAD AYAZ**

appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

respondent

**Representation:**

For the appellant: Mr ZH Mahmood (registered with OISC)

For the respondent: Mr Wilding, Home Office Presenting Officer

**DECISION AND REASONS**

This is an appeal by a citizen of Pakistan born 1986 against a decision of Judge James Devittie, sitting at Taylor House on 1 September 2016. This appellant had been here as a student, but failed to enrol in the second year of his course, following which he was met with by the police and immigration officers, and removal directions were given.

2. The appellant made further applications on the basis of private and family life, and on 15 January 2015 went through an Islamic ceremony of marriage with a British citizen. A subsequent application for judicial review was made, but withdrawn, and in due course he gave notice of a civil marriage with his partner, and made a private and family life application on 17 July 2015, citing his partner and her son, Carlton, who was by then 8.
3. On 18 August 2015 this was refused because it was said there were no very significant obstacles to his return to Pakistan and his relationship with his partner and stepson was doubted. There has been a further significant development since then by way of a birth to the appellant's partner of his son, born on 22 April 2016.
4. The judge, in a very detailed and painstaking decision accepted the appellant's relationship with the applicant's partner, and with her child. He dismissed the appeal on those points, but without considering that the appellant's own child was a British citizen; so the remaining question was whether that child could reasonably be expected to return with the appellant and his mother to Pakistan. However, Mr Wilding helpfully pointed out that Home Office policy does not require return in such circumstances, and the importance of Home Office policy is underlined by the decision in *SF and Others* (Guidance, post-2014 Act) Albania [2017] UKUT 120 (IAC) as follows:-

Even in the absence of a 'not in accordance with the law' ground of appeal, the Tribunal ought to take the Secretary of State's guidance into account if it points clearly to a particular outcome in the instant case. Only in that way can consistency be obtained between those cases that do, and those cases that do not, come before the Tribunal.

Mr Wilding conceded that the outcome in the present case was clear, and invited me to allow the appeal, which I do.

**Appeal allowed**



(a judge of the Upper Tribunal)

Date 25 April 2017