



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

Appeal Number: HU/00050/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 20th February 2018**

**Decision & Reasons
Promulgated
On 21st March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

**MRS BATOUL AL DAAS
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Fadi Al Swidani, Sponsor

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Syria who applied to join her husband, Mr Al Swidani in the United Kingdom. The Respondent refused the application on the basis that various requirements of the Rules were not shown to be satisfied and the Appellant exercised her right of appeal.
2. Her appeal was heard by First-tier Tribunal Judge Bowler who found that the Immigration Rules had not been met and dismissed the appeal on that basis and on human rights grounds. The judge found that the issue of whether the Appellant and her husband intended to live permanently with

the other was not made out by the Appellant and the judge noted that there was nothing in Mr Al Swidani's witness statement or orally at the hearing that they intended to live together. The judge went on to dismiss the appeal.

3. Grounds of Application were lodged on the basis, principally, because the judge had said the marriage was subsisting it followed that it was genuine and the judge had imposed his own expectations of how a couple might conduct their relationship and this was wrong in law. Permission to appeal was granted.
4. A Rule 24 notice was lodged on behalf of the Secretary of State saying there were fundamental problems with parts of the evidence before the judge both in respect of credibility and a lack of evidence of intention to live together. It was open for the judge to find as he did.
5. Thus the matter came before me on the above date.
6. Before me the Sponsor, Mr Al Swidani appeared and the solicitors did not. A telephone call made by my clerk to the solicitors indicated that they were acting for the Appellant and not the Sponsor and that the parties had split up.
7. Mr Al Swidani accepted that his wife had left him and that the marriage was no longer subsisting.
8. For the Home Office it was observed that the challenge to the judge's decision had therefore fallen away and the Appellant was no longer seeking a remedy.
9. Mr Al Swidani acknowledged the position namely that the appeal could not be taken further. He enquired about what might happen in the future if he sought to bring another wife to the United Kingdom which is of course a separate matter.
10. In short, it can be said that the judge was correct to find as he did, namely that this marriage was not genuine and subsisting. As such there is no error of law in the judge's decision which must stand.

Notice of Decision

11. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
12. I do not set aside the decision.
13. No anonymity order is required or made.

Signed *JG Macdonald*

Date 20th March 2018

Deputy Upper Tribunal Judge J G Macdonald

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed *JG Macdonald*

Date 20th March 2018

Deputy Upper Tribunal Judge J G Macdonald