



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/25089/2016

THE IMMIGRATION ACTS

Heard at Field House
On 7th March 2018

Decision & Reasons Promulgated
On 4th April 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

MRS SOPHIA RUMBIDZAI MUSONZA
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

ENTRY CLEARANCE OFFICER - PRETORIA

Respondent

Representation:

For the Appellant: Mr G Musonza (Husband of Appellant)
For the Respondent: Mr P Nath, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appeals against the decision of First-tier Tribunal Thorne which was promulgated on 24th October 2017. She had applied for entry clearance to join her husband here in the United Kingdom. The Entry Clearance Officer had refused the application because it was said that there was insufficient evidence of the Appellant being able to meet the £18,600 a year requirement by her Sponsor.
2. The judge dismissed the appeal and said amongst other things as follows at paragraph 24 under the subheading of findings

"I am satisfied that the Appellant failed to submit to the Entry Clearance Officer the required evidence to establish that the Sponsor was earning £18,600 a year. In particular (inter alia) he did not submit the statement of account (SA300 or SA302), self-employed registration, evidence of national insurance contributions and a certificate from an accountant showing he is properly registered as required under the Rules to prove his income from self-employment. I conclude therefore that as at the time when the ECO made his decision the Appellant did not meet the requirements of the Immigration Rules."

3. The Appellant sought permission with grounds which are in manuscript and it is right to say that the grounds are quite difficult to decipher and indeed to follow but in short, they say as follows:

"(1) Evidence of English test my wife could not be able to apply for visa if she did not pass test and I also believe that the judge should have known this.

(2) The proof of earning more than £18,600 all tax documents from HMRC from 2015-2017 also evidence of me sending money to my wife every month of which that money should be spent in the UK.

(3) I believe the judge should know better than I do the difference between social housing and housing associations and then there is reference to a one bedroom flat with appropriate bathroom and kitchen facilities. The grounds say that a family of one can live in a one bedroom flat.

(4) As a British citizen I have a right to live where I want to, to raise my family."

4. Mr Musonza appeared today as he did before Judge Thorne and it is clear to me that in his concession during his submissions that he did not submit the required documents to the Entry Clearance Officer nor did the Appellant and although it is right to say he presented those documents to the judge. As I explained to him, that was well after the application was made.
5. Mr Nath on behalf of the Entry Clearance Officer quite properly reminds me that "the Rules are the Rules" and it was essential for the Appellant to have provided the required documentation with the application for entry clearance. Mr Nath says that the appropriate thing for the Appellant and Sponsor to do would be for them to make a new application for entry clearance.
6. Mr Musonza was somewhat aggrieved by the hearing before Judge Thorne. He said he thought the judge felt agitated. Mr Musonza said he apologised for that and he was acting as a litigant in person but that he produced various documents and bank statements. Mr Musonza says that insofar as making a further application is concerned that that is a money-making scheme of the Home Office and that it might cost some £2,000 for him to make a new application for his wife to enter the United

Kingdom. He also refers to his first child having been born (I think in October 2017) and that he wishes for the family to be united here. He says that he has not gone down the route of trying to get his wife to come to Europe via Spain, he is patriotic, and he wants to do the right thing because he is British.

7. Now as I explained to Mr Musonza, it is I am afraid as simple as this: He failed to produce the documents and so did the Appellant when the application for entry clearance was made. When permission to appeal was granted the judge did say that the grounds needed refining and clarifying but that there may be a point in respect of the English language test. In my judgment this case really had nothing to do with the English language test because the judge did not find against the Appellant on that. The judge made it very clear in that paragraph that I have read out that the essential specified documents were not provided with the application. It means, in my judgment that it is abundantly clear that the FTT judge had to dismiss the appeal.
8. The judge however went on to deal at length with Article 8 and set out all of the appropriate decisions such as **Huang, Razgar** and indeed other authorities thereafter. In my judgment there is simply no identifiable material error of law. In the circumstances I conclude that the decision of the First-tier Tribunal Judge shall stand.
9. Now as I explained to the Sponsor it is a matter for him as to whether he decides to see lawyers or not but application for entry clearance may not necessarily be as straightforward and as simple as he thinks he and the Appellant may wish to consider taking legal advice if they are to make a new application for entry clearance.

Notice of Decision

There is no error of law in the Judge's decision. It shall stand and the Appellant's appeal remains dismissed.

Signed: A Mahmood

Date: 7th March 2018

Deputy Upper Tribunal Judge Mahmood