



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

Appeal Number: PA/13006/2017

**THE IMMIGRATION ACTS**

**Heard at Manchester**

**On February 5, 2019**

**Decision & Reasons  
Promulgated  
On 22 February 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**MOHAMMAD FAWAD BEHBOUDI  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: In person

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant entered the United Kingdom on January 28, 2016 and claimed asylum the following day. The respondent refused his claim on November 24, 2017 under paragraphs 336 and 339M/339F HC 395.
2. The appellant lodged grounds of appeal on December 8, 2017 under Section 82(1) of the Nationality, Immigration and Asylum Act 2002. I note that on page 9 of the grounds of appeal the appellant made reference to Article 8 ECHR but the detailed grounds of appeal attached to those grounds did not make any reference to either family or private life.

3. His appeal came before Judge of the First-tier Tribunal Birrell on July 18, 2018 and in a decision promulgated on July 31, 2018 the judge dismissed a claim for protection and dismissed his human rights claims.
4. The appellant appealed that decision and whilst permission to appeal was initially refused by Judge of the First-tier Tribunal Froom, Upper Tribunal Judge Reeds granted permission on November 20, 2018, finding that it was arguable the Judge should have considered the appellant's Article 8 family life claim in light of the fact there was DNA evidence that he had family in this country. Permission to appeal was refused on all other grounds. The respondent filed a Rule 24 response on December 5, 2018 in which he opposed the application and submitted that it was far from clear that the appellant had actually advanced a family life claim at all.
5. No anonymity direction is made.

### **THE HEARING**

6. At the hearing the appellant appeared in person. I raised with him whether he was happy to conduct the hearing in English as he had previously used an interpreter. Having discussed matters with the appellant in English over a few minutes I was satisfied that the hearing could properly proceed without an interpreter.
7. I thereafter outlined to both the appellant and Mr McVeety what was recorded in the Judge's Record of Proceedings. In particular, I noted that there were no submissions made on family life grounds and that there was no evidence that this issue was pursued in oral evidence by any of the witnesses. I also looked at the witness statements which were contained on the file and these were also silent as to the issue of family life.
8. A DNA report had been obtained but this in part was to demonstrate he was related to his sister, an Afghan national, who was already in this country.
9. The appellant was represented by experienced Counsel at the original hearing and the Judge's decision made no reference to any submissions on family life from him. As I stated above, the Record of Proceedings also recorded no submissions on family life.
10. Mr McVeety submitted that in the absence of such argument there was no error in law. The Judge could not be criticised for not dealing with a family life claim where no such argument was advanced either by the appellant or his counsel. It goes without saying that not every protection claim involves an Article 8 claim.
11. In any event, any Article 8 claim, now advanced, was based on an adult relationship with siblings and considerably more evidence than was currently on the file would have been required if such an application would have had any chance of success.

12. Looking at the Record of Proceedings, statements and the Judge's decision I am satisfied that the Judge was never asked to deliberate on an Article 8 family life claim and accordingly she cannot be criticised for not doing so. This was not a "Robinson" obvious argument. The issue had never been raised in any of the grounds of appeal or statements and I therefore find there is no error in law.

**Notice of Decision**

I dismiss the appeal and uphold the decision.

Signed

Date 20 February 2019

Deputy Upper Tribunal Judge Alis

**TO THE RESPONDENT**  
**FEE AWARD**

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

Signed

Date 20 February 2019

Deputy Upper Tribunal Judge Alis