



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: UI-2022-003679

EA/01712/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On the 01 September 2023

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

MUHAMMAD ZAIN JABBAR

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

No Hearing on 23 August 2023

DECISION AND REASONS

1. The appellant, a national of Pakistan, appeals, with permission, to this Tribunal against the decision of the First-tier Tribunal (Judge Jepson) dismissing his appeal against the decision of the respondent on 17 January 2022 refusing him entry clearance as a spouse.
2. The grounds on which permission was granted were that the First-tier Tribunal Judge failed to take into account all the documents that had been submitted in support of the appeal. This ground appears to have merit. It was particularly unfortunate, because (despite what he says at the top of his decision) the judge determined this appeal without a hearing.
3. The appellant's claim, and his application to the Secretary of State, are based on his marriage to Bernadette Brady, a national of the Republic of Ireland, with, at the relevant time, pre-settled status in the United Kingdom. That marriage took place on 25 November 2020 in Killgarry, Co. Cavan. The sole reason given by the Secretary of State for refusing the application, and the sole matter raised on the Secretary of State's behalf

before the First-tier Tribunal, is that the marriage was not valid because the appellant was not free to marry Ms Brady.

4. The Secretary of State noted the appellant's marital history as follows. First, in connection with a human rights application in November 2014, the appellant served on the Secretary of State a certificate of his marriage on 10 November 2014 to Varda Ahmed at the Al Anwar Centre in London NW10. Then, a few days later, he was arrested on 13 November 2014 attempting to contract a marriage that was considered a sham.
5. The Secretary of State appears to have thought that she had been sent a certificate of the latter marriage. I do not know whether the 13 November ceremony was intended to give legal force to the 10 November marriage. But there has in fact, as is now clear, never been any marriage other than that of 10 November, which is not valid as a marriage under the law of any part of the United Kingdom nor, we understand, in the Republic of Ireland.
6. The appeal came before this Tribunal (the President and Vice President) on 3 April 2023. The appellant's wife attended, and Mr Melvin appeared for the Secretary of State. Following submissions, we directed the Secretary of State to consider her position. She has done so and does not now ask this Tribunal to say that the appellant was not free to marry on 25 November 2020. No further hearing is sought by either party.
7. There is a letter from the appellant, making a number of assertions about the conduct of the Secretary of State and her representatives. Those assertions are not material to the determination of the present appeal.
8. For the reasons given in paragraph 2 above, I set aside the decision of Judge Jepson for error of law. For the reasons given in paragraphs 5 and 6 above, I substitute a decision allowing the appellant's appeal against the refusal of entry clearance.

C.M.G. Ockelton

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 23 August 2023