



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2023-
000245
First-tier Tribunal:
HU/52643/2022
IA/04157/
2022

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 11 September 2023**

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

**M M N
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Rai (Solicitor, Braitch Solicitors)

For the Respondent: Ms R Arif (Home Office Presenting Officer)

Heard at Birmingham Civil Justice Centre on

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (*and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified*) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (*and/or other person*). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant is a national of Iran. The Appellant had applied for entry clearance to the UK to join her father who lives here and is a British Citizen. The application was refused by the ECO and the Appellant appealed. The appeal was heard by Judge Row at Birmingham on the 19th of October 2022 and was dismissed for the reasons given in his decision of the 22nd of October 2022.
2. The Appellant sought permission to appeal to the Upper Tribunal. The application to the First-tier Tribunal was refused. In refusing the application Judge Robinson observed “that there was very little documentary evidence to show that the Sponsor had any significant involvement in the Appellant's life.”
3. The application to the Upper Tribunal was granted by Upper Tribunal Judge Blundell on the 3rd of March 2023. He did so in the following terms:

“I am granting permission in this case with some hesitation but with an eye on s11A of the Tribunals, Courts and Enforcement Act 2007. It is just arguable, in my judgment, that Judge Row gave inadequate reasons for concluding that the appellant's best interests were to remain in Iran and that there were no serious and compelling family or other considerations which rendered her ongoing exclusion undesirable.

I find the other two grounds less persuasive but I do not restrict the grant of permission. It may well be that on final analysis the result is as foreshadowed in the FtT's refusal of permission to appeal (that there was simply insufficient evidence to establish any real involvement of the sponsor in the appellant's life) but that is a matter for the hearing of the appeal.”
4. Judge Row's consideration of the Appellant's case and the evidence is found at paragraphs 20 to 61 of the decision. In addition to the claims made about the Appellant's life in Iran, that she had lived with her mother until the age of 3, then with her grandmother to the age of 19, briefly with her mother then aunts with both relationships becoming difficult there was other evidence that the Judge considered.
5. In paragraphs 31 to 39 the Judge discussed the evidence arising from the Appellant's previous applications for visit visas, in which she was to have travelled with her mother to the UK, and in relation to the terms of the divorce settlement between the Appellant's father and her mother.
6. In the discussion the Judge had regard to the evidence relied on to explain why the visit visa applications had been made and the claim that a reconciliation was anticipated between the Appellant's parents. With regard

to the divorce the fact that maintenance was paid to the Appellant's mother was explained by her living with her mother.

7. The Judge made in essence 2 findings. The first is that the evidence relating to the visit visa applications and the terms of the parents' divorce led to the conclusion that the Appellant had in fact been living with her mother who had been her carer. That was open to the Judge on the evidence presented and the grounds do not show an error, weight is a matter for a Judge and it is clear that all the relevant evidence had been addressed.
8. The second finding was stated at the start of paragraph 40 that "There is little documentary evidence to show that the sponsor has had any significant involvement in the appellant's life." There was no evidence of money transfers, the school letters did not refer to the Sponsor as having any involvement and the Appellant's GP's letter was silent on responsibility.
9. At paragraph 43 the Judge attached little weight to the letter from local residents, (which suggested the Sponsor provides financial support) and there was nothing from the Appellant's mother. In paragraph 45 the Judge referred to other independent evidence in the form of a social worker's report, independent evidence about the Appellant's could have been provided and had not.
10. The grounds of application at page 27 argue that the Judge erred in drawing adverse inferences in paragraphs 37 and 38 relying on the anticipation that the Appellant would live with her mother post-divorce. The Judge clearly rejected the explanation of an anticipated move to the Appellant's mother's and did so having regard to the to other written evidence and the oral explanation provided. The ground proceeds on the basis that the explanation of an anticipated move was the only evidence when that was not the case and it does not address the reasoning that the Judge gave.
11. The second ground related to the Judge's observation that there was not an independent social worker's report. As an observation that was correct. As part of the overall reasoning it was only a very minor point and the Judge referred to the absence of any independent evidence in support and that carries more weight. That the school and GP's letters were silent when they could have provided independent support undermined the Appellant's case.
12. From the renewed grounds at page 25 and at the hearing Mr Rai argued that the Judge had not conducted an analysis of the Appellant's circumstances in Iran as required by the rules. The problem with that submission is that the evidence relating to the Appellant's circumstances in Iran was incomplete, it did not show that the Appellant's circumstances were as claimed and suggested a greater role for her mother over a much longer period of time. Given the state of the evidence considered by the Judge there was no basis for a finding that the Appellant's continued exclusion was undesirable.

13. As Upper Tribunal Judge Blundell had observed the findings of Judge Row that the evidence of the Sponsor's involvement in the Appellant's life was limited. That finding was reached following a consideration of the all of the evidence with the contradictions and inconsistencies identified. It follows that not only did the evidence not show that the Sponsor had exercised sole responsibility for the Appellant but it did not show adequately the Appellant's circumstances in Iran to justify the Appellant's entry to the UK.

Notice of Decision

14. The appeal is dismissed.

M Parkes
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

31st August 2023

