IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Appeal No: UI-2022-004528

First-tier Tribunal No:
HU/05462/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 16 September 2024

Before

UPPER TRIBUNAL JUDGE RIMINGTON
UPPER TRIBUNAL JUDGE HOFFMAN

Between

Mr Lakhvir Singh
(NO ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Mr Z Raza instructed by Bukhari Chambers Solicitors
For the Respondent: Mrs A Nolan Senior Home Office Presenting Officer

Heard at Field House on 12 August 2024

DECISION AND REASONS

1. Following an application for permission to appeal the Upper Tribunal, on 19th July 2023, set aside the decision of First-tier Tribunal Judge Athwal (the judge) dated 30 June 2022. The judge's decision had allowed the appellant's appeal against the Secretary of State's decision dated 9 April 2020 to refuse the appellant leave to remain on the basis of his family life. The Upper Tribunal found an error of law because the judge had misdirected himself in law and

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failed to follow the guidance in DK and RK (*ETS: SSHD evidence; proof*) *India [2022] UKUT 00112 (IAC).*

2. This is the second time that this matter has been before the Upper Tribunal. On 22nd March 2022 UTJ Mandalia set aside the decision of FtTJ Juss who had found the appellant could not succeed under the immigration rules nor on an Article 8 basis and yet who had allowed the appeal. There were no findings preserved.

3. In terms of documentation, we had before us the appellant's and Home Office bundles before the FtT including an 'ETS' bundle with generic evidence on ETS. There was a bundle from the appellant, including his three witness statements, statements from his partner, and a further supplementary bundle filed in August 2024. We note a letter from Dr Hussain, GP, dated 31st July 2024 in relation to the partner's mother and medical evidence particularly relating to fertility in relation to the partner and an undated letter from the partner's sister. We were specifically provided with a copy of the skeleton argument before the UT dated October 2023. There were documents from the earlier appeal before the UT. We noted this to counsel.

4. The appellant is a national of India born on 4th October 1991 and he entered the United Kingdom (UK) on 23rd January 2011 as a Tier 4 student with a visa valid until 29th February 2012. His leave was extended to 5th July 2013 on and 1st July 2013 he submitted an application for further leave to remain (LTR) as a student, which was granted to 30th April 2015. With that application the appellant had provided an Educational Testing Service (ETS) English language certificate. On 25th June his Tier 4 leave was curtailed with no right of appeal to 29th August 2014 as his sponsor's licence was revoked. On 12th November 2014 the appellant was served with a notice of removal for obtaining LTR by deception owing to having submitted a fraudulent ETS English language certificate. He submitted an application for LTR on the basis of private/family life on 30th January 2020. He had commenced a relationship with his partner and took up residence with her on 12th May 2018.

5. Both the appellant and his partner, gave evidence before us and we do not record their evidence in full but merely refer to that oral evidence in our analysis where relevant.

6. Mrs Nolan submitted that we should follow the caselaw, particularly DK and RK, and find that the appellant, in the face of the overwhelming evidence from the Secretary of State, had not shown that he had indeed taken the ETS test. The appellant could not fulfil the immigration rules; there was simply not the evidence to find insurmountable obstacles to his return to India or to fulfil Gen 1.3 of Appendix FM or to show any breach of Article 8 outside the rules. The list of factors in the appellant's favour were far outweighed by the those favouring the Secretary of State's position.

7. Mr Raza relied on the skeleton argument previously submitted. Notwithstanding the evidence, DK and RK still accepted that it was possible for an appellant to explain, in the face of evidence of cheating from ETS, that the appellant was innocent. We were referred to [129] of DK and RK and to the relevant factors in Majumder v SSHD **[**2016] EWCA Civ 1167 at [18]. The appellant had studied in India and passed English examinations and taken an English test in order to come to the UK. There was an explanation for the discrepancy between his oral evidence and his witness statement, as to where he was studying and his statement was clumsily worded; although he said in his statement he was enrolled at Taitech in Manchester and in his oral evidence that he was at Bilston College near Wolverhampton, at the time of curtailment he was still studying and it was difficult to remember, as this was over 10 years ago. Taitech had had its sponsor licence revoked but such revocation was very common at that time. The appellant was a genuine student and had undertaken studies and passed relevant courses. The appellant's evidence was frank and straightforward. There was slight inconsistency on the evidence between the appellant and his partner but more confusion. Nothing in his character suggested the appellant had been deceitful. It was accepted he was not here legally since 2014 but the landscape legally had changed. There was nothing unusual in taking a test recommended by a friend. The Secretary of State should have exercised discretion differently owing to the passage of time and bearing in mind the strength of the human rights claim.

8. It was accepted that at the time of the application the appellant did not meet the definition of a partner under Gen 1.2 of the Immigration Rules but the income requirement could be fulfilled. Mr Raza accepted on enquiry from the UT that the appellant also did not meet the immigration status conditions. However in relation to GEN 3.2 there were insurmountable obstacles to the relationship continuing outside the UK. This was because of the partner's and appellant's relationship and the support provided by them to the partner's family. There was medical evidence from Dr Chaggar (GP) dated January 2020 and Dr Hussain in relation to the mother in law. The father in law was an alcoholic but the mother in law could not leave him because of cultural expectations. The partner worked full time and the appellant provided considerable support. We were invited to accept the evidence given was truthful.

Conclusions

9. We heard extensive oral evidence from the appellant through a Punjabi interpreter, which we have noted in full but as it is recorded, we have only referred to matters particularly relevant to our decision. We have carefully considered the witness statements of the appellant dated 23rd May 2022, 12th October 2023 and 29th July 2024 and the appellant's partner.

10. The Look up tool Record 94343 from ‘ETS SELT Source Data’ was provided and confirmed that the appellant’s test taken on 15th January 2013 at New London College was ‘invalid’.

11. The appellant, when asked about his test stated that a friend had taken the test at New College in Hounslow in London one month before the appellant and had recommended the same college to the appellant. The appellant did not give the reasons for the recommendation by the friend and did not explain adequately, in our view, the reason why he would have travelled to Hounslow in London when he was at college either in Manchester or Sandwell and Dudley and living in Oldbury in the West Midlands. Although there was an apparent conflict between the appellant’s previous witness statement, wherein he asserted he was studying in Manchester, and his oral evidence that he was studying in Bilston, near Wolverhampton, even if that were ignored there was still no proper explanation for the appellant travelling many miles to a college in London to take the ETS language test. According to the appellant the Manchester college which he studied at after he took the test was also closed down. The appellant did state that he researched other colleges to take the test and found one in Birmingham but decided to follow the recommendation of his friend. Bearing in mind he took the test on 15th January 2013 and his leave was to expire on 5th July 2013 there was no urgency or need to find a test centre with spare places or any proper reason given for why he travelled all that way to take the test as a student particularly as in his statement of May 2022 at para 24, he confirmed he had never been to London before. Even if he attended the centre the evidence shows he did not personally, as claimed take the test.

12. The statistic provided in the ETS bundle showed that of the results for that day 72% were found to be invalid and 28% to be questionable.

13. In the instant case, the tests were either invalid or questionable, which means there were no validated tests at that test centre on the day the appellant was said to have legitimately taken the test. As stated in **The Queen (On the application of) Abbas v the Secretary of State for the Home Department** [2017] EWHC 78 at paragraph 14

> ‘it is of evidential significance that there were no apparently genuine candidates on the day in question’.

14. The relevant conclusions of **DK & RK** are in essence found at [126] to [129] and I set them out for clarity as follows:

> ‘GENERAL CONCLUSIONS
>
> 126. The two strands, therefore, amount respectively to the virtual exclusion of suspicion of relevant error by ETS, and the

virtual exclusion of motive or opportunity for anybody to arrange for proxy entries to be submitted except the test centres and the candidates working in collusion.

127. Where the evidence derived from ETS points to a particular test result having been obtained by the input of a person who had undertaken other tests, and if that evidence is uncontradicted by credible evidence, unexplained, and not the subject of any material undermining its effect in the individual case, it is in our judgment amply sufficient to prove that fact on the balance of probabilities.

128. In using the phrase "amply sufficient" we differ from the conclusion of this Tribunal on different evidence, explored in a less detailed way, in SM and Qadir v SSHD. We do not consider that the evidential burden on the respondent in these cases was discharged by only a narrow margin. It is clear beyond a peradventure that the appellants had a case to answer.

129. In these circumstances the real position is that mere assertions of ignorance or honesty by those whose results are identified as obtained by a proxy are very unlikely to prevent the Secretary of State from showing that, on the balance of probabilities, the story shown by the documents is the true one. It will be and remain not merely the probable fact, but the highly probable fact. Any determination of an appeal of this sort must take that into account in assessing whether the respondent has proved the dishonesty on the balance of probabilities.'[my emphasis in bold]

15. Significantly, there was also a Project Façade report on New College London (Hounslow) dated 5 May 2015, following a criminal investigation at the college where the appellant asserted he took his test. The report clearly identified that the test taken by the appellant in January 2013 fell within the period of investigation which was from 20th March 2012 to 15th May 2013. The percentage of invalid tests during this period was recorded at 74%. The remainder were questionable. None were identified as having 'no evidence of invalidity'. Cheating was observed on 14th May 2013 demonstrating that 'pilots' (imposters) were taking the tests on behalf of others.

16. We were asked to take into account the appellant's educational attainments prior to leaving India and his accomplishments since arriving here. We gave time to Mr Raza to indicate how the level of the IELTS English test taken prior to entering the UK compared with the test taken to support the application of the appellant in 2013. Mr Raza submitted in written submissions that the appellant had achieved the level required for the B1 test (as required in the extension application) prior to coming to the UK. He submitted that

the appellant passed in 2010 his IELTS test in all four components with an overall band score of 4.5. Even if the appellant could speak English reasonably, the test comprised reading, writing and speaking and **<u>MA</u> (ETS TOEIC testing) [2016] UKUT 450** at [57] states that there are a number of reasons why people might cheat for example

> 'In the abstract, of course, there is a range of reasons why persons proficient in English may engage in TOEIC fraud. These include, inexhaustively, lack of confidence, fear of failure, lack of time and commitment and contempt for the immigration system. These reasons could conceivably overlap in individual cases and there is scope for <u>other</u> explanations for deceitful conduct in this sphere. We are not required to make the further finding of <u>why</u> the Appellant engaged in deception and to this we add that this issue was not explored during the hearing. We resist any temptation to speculate about this discrete matter.'

17. When considering the nature of the task of assessing the appellant's case, <u>Majumder</u> at paragraphs 18 sets out the relevant factors which include

> 'what the person accused had to gain from being dishonest; what he had to lose; what is known about his character; the cultural environment in which he operated; how the individual accused of dishonesty performed under cross-examination, and whether the Tribunal's assessment of that person's English language proficiency is commensurate with his or her TOEIC scores; and whether his or her academic achievements are such that it was unnecessary or illogical for them to have cheated'.

18. The appellant in his witness statements emphasises the importance of his visa and coming to the UK to enhance his career. We have little information about his character at that time save to observe that his friend with whom he studied also took a test at the same New College, not one month before the appellant and also during a period when the college was under investigation. The appellant's academic achievements do not put out of bounds the need to cheat and we also note that he used a Punjabi interpreter on the day of the hearing before us. We do acknowledge that the appellant may find cross examination in a judicial setting stressful and thus place limited adverse weight on the use of an interpreter but we did find his explanation of his use of a college miles from where he was studying inadequate. The appellant maintained that he could speak English but his claims in 2020 (his application) and in 2024 do not necessarily indicate a level of English in 2013, nor indeed do the tests taken in 2010.

19. We are not persuaded that the appellant's tape of his exam was muddled up with another's and we note we had not been provided with a copy of the recording.

20. The appellant simply denied he had cheated and confirmed that he had taken the test. We do not accept that because he was able, as he wrote in his statement, 'to read write and speak English clearly' that this necessarily obviated the need for him to make an application fraudulently.

21. DK and RK carefully analysed the Secretary of State's evidence and ultimately found there was no reliable evidence to show that there was a possibility of an individual's test recording as being attributed to another person. DK and RK at [105] noted:

> "The circumstances were not, however, that there was any prospect of carelessness or randomness being associated with the continuity of records, either at the point where they were labelled by the test centre or after their transmission to ETS for marking. …. There is no reason at all to suppose that they would be other than extremely careful to ensure that the fraudulent entries were indeed credited to the fraudulent candidates. The suggestion of any general mix-up at this stage runs counter to the ordinary experience of the provision of a service."

22. In the light of the evidence overall we conclude that the appellant was engaged in deception. Thus even if the appellant did have the required English level which Mr Raza submits he had demonstrated from a test in 2010 and that the same level B1 applied to both the 2010 and 2013 applications, the appellant we concluded overall nonetheless on the evidence before us provided the respondent with a fraudulent test. The Secretary of State provided ample evidence to discharge the burden on her and the appellant's mere denial of cheating and assertion of innocence was simply insufficient to counter the evidence of the respondent.

23. Turning to the relationship of the appellant and his partner, we take note that they are undergoing fertility treatment and have been doing so since approximately one year after their relationship commenced. The partner, is a solicitor and British citizen who is 31 years old. She told us at the hearing that the recent IVF treatment was unsuccessful.

24. Both she and the appellant told us that she was fully aware of his immigration status, or rather lack of it, since their relationship developed in 2018.

25. When the appellant applied for leave to remain on 30th January 2020 it was accepted by Mr Raza that the appellant could not fulfil the requirements of the Rules as he did not meet the definition of a partner (albeit he submitted that subsequently it was accepted that there was now a genuine relationship). Despite the income requirement being met the appellant had no immigration status to permit him to qualify under the Rules as per E-LTRP 2.1 to 2.2. The

appellant was at the time of the application, and remains, in the UK unlawfully and has been since his leave was curtailed in 2014.

26. Owing to our findings on the deception, we conclude that the appellant could not fulfil the suitability requirements under S-LTR of the Immigration Rules. In his application of 1st July 2013 he used an ETS certificate dated 15th January 2013 which upon checking was confirmed as invalid. He had thus used false representations and we do not consider that any delay ameliorates the fact of that deception or that discretion should have been exercised differently by the Secretary of State. He does not meet S-LTR 4.2 of Appendix FM of the Rules.

27. The appellant could not meet paragraph 276ADE(1)(iii) as he had not lived in the UK for 20 years and there were no very significant obstacles to his retuning to India where he had lived and was educated for the majority of his life, had family and spoke Punjabi the language. SSHD v Kamara [2016] EWCA Civ 813 requires a broad evaluative assessment of possible reintegration and we have also noted his claimed integration in the UK and the length of his residence here. The appellant has secured various qualifications, states he can speak English and did not present any significant health issues. Even if he had no family support in India, we do not accept there would be significant obstacles to his return. Merely because India has developed does not mean the appellant would be unable to adapt. Kaur v SSHD [2018] EWCA [57] emphasises that bare assertions of very significant obstacles to return are just that and that more than mere practical difficulty is required. That said, we also found the appellant’s evidence was embellished and at the very least unreliable. For example, he contended that he found it difficult to read and write in Punjabi: and yet he was educated throughout his school career in India. Clearly his spoken Punjabi, as demonstrated by the use of an interpreter at the hearing, was better than his English.

28. Even though EX.1 does not strictly apply, in terms of whether there are insurmountable obstacles to the appellant and his partner relocating to India (the applicant could not comply with the suitability requirements) we note that the appellant’s partner is a British citizen, owns a house, and is a solicitor here and has family here but a preference of where to live does not impose a burden on the UK to secure that preference. There is no indication that the couple could not secure accommodation and employment should they decide to relocate together in India.

29. The question under Gen 3.2 of the Immigration Rules was whether there were exceptional circumstances which would result in unjustifiably harsh consequences for the applicant, his partner or another family member whose Article 8 rights would be affected should the appellant be refused leave to remain. As noted in the

decision under appeal the appellant could not meet paragraph R-LTRP (failure of suitability requirements) and thus EX.1.(b) does not apply.

30. Turning to a consideration of the appellant's partner, she has family in India, speaks Punjabi and has visited India on several occasions. The appellant stated in his written evidence that his partner only spoke English and that is not true. The appellant told us that she stayed in a hotel when she visited India. She told us that she stayed with family and friends. We note she is a British citizen and a solicitor here and it would be difficult to requalify but we do not accept that her ties and connections with India are as limited as the appellant maintained. The partner knew at the outset of the relationship that the appellant had no leave to remain. No further evidence was submitted that the partner was in danger in India from her ex-partner's husband and we consider this an embellishment in the written statement of the appellant. We appreciate that she has experienced Polycystic Ovary Syndrome (PCOS) and has been undergoing IVF but there was no evidence presented to us that IVF treatment is not available in India nor that the partner's anxiety would prevent her from accessing IVF in India.

31. A letter from Dr Chaggar dated 16th August 2018 in relation to the partner confirmed that apart from acne, hair and weight issues the partner was 'otherwise fit and well'. A further letter dated March 2020 from Dr Kempergowsda also indicated that save from similar issues and PCOS she had not been 'diagnosed with any other medical problems' and was not on any regular medications. We have taken into account her mental health issues but these do not prevent the appellant from working full time as a solicitor and her witness statement of 2022 confirmed that she stopped taking anti-depression medication in 2021. There is no indication that medical and mental health treatment is not available in India or that maternity services are not available. There was no indication that the appellant himself had significant health difficulties and could not support in his partner. We noted the IVF treatment which had been ongoing for a considerable period of time. Following the hearing on 12th August 2024 at which the appellant's partner told us categorically the treatment had failed we were very surprised to receive written confirmation of a positive pregnancy test not a week later. Thus the appellant and his partner have succeeded in their IVF treatment for which they maintained that the partner needed to remain in the UK. No evidence was presented that pregnancy and delivery in India is not an everyday occurrence. Nor was there evidence presented to demonstrate that the appellant and partner would not be able to secure accommodation and employment once in India. Mere assertions on that basis are insufficient. These are evidently competent individuals who can support each other. In terms of the partner's career aspirations, she knew when she entered into a relationship with the appellant that he had no leave to remain and

that she might face the dilemma of remaining in the UK to pursue her career or following her partner to India.

32. Particular emphasis was placed on the appellant's life with his partner and their support afforded to her family, being her mother and her grandmother, both of whom had medical issues, and it was asserted that they relied on support from the appellant and his partner.

33. The last direct evidence from the grandparents was in January 2020 and confirmed that the partner supported them with tasks if unwell and that she 'liaises with medical professionals' on their behalf and assisted with post, 'helped to book holidays 'and correspondences with 'my employers' (sic).

34. Although it was asserted that the support from the partner's siblings to the parents and grandparents was minimal, the oral evidence from the appellant and partner was contradictory specifically in relation to the first sister. The appellant stated that she lived a 30 minute drive away and she only visited once every 3 or 4 weeks. By contrast the partner stated that she visited on a weekly basis. Both sisters are in frequent telephone contact with the parents and grandparents (who all live together) and visit on a regular basis. In relation to the support from the partner's siblings, we simply do not accept that the support for his in laws is as limited as claimed by the appellant. There was no indication of the needs of the grandfather and we note that the father is said to be an alcoholic.

35. Without a detailed outline of the care needs for the grandmother and the availability of assistance from external agencies, ie the NHS, we are not persuaded that the appellant or his partner's assistance for their relatives needs was required or that it could not be found elsewhere. The appellant stated that the NHS did not 'come anymore' for the grandmother and the NHS had recommended carers but he added that the NHS was told the family would undertake the support. The partner denied the grandmother was offered NHS support but we consider that contrasts sharply with the evidence of the appellant who indeed maintains that he is actively involved in the grandmother's care. The partner asserted in her latest witness statement dated 24th July 2024 that they had been told that within a matter of a few years the grandmother may forget who they were and require 24-hour assistance. No medical evidence of this was provided.

36. According to the letter provided by the mother dated 29th July 2024, her ill-health was chronic and long standing well before the appellant entered the UK. She referred to her daughter's assistance but did not refer to the grandmother's husband or the care she received from the 'psych teams' or the NHS which previously the GP had identified.

37. We noted the evidence of her health needs which were confirmed in January 2020 from Dr Chaggar (GP) such that the partner's mother had taken an overdose 'which she regrets', but this confirmed that she was 'getting help from the community psych teams and is on regular medications'. This added that the daughter SM [the appellant's partner] helped and supported her and does 'most thing with her on a daily basis'. The letter of Dr Hussain dated 31st July 2024 was in similarly brief terms, described severe depression of the mother and that she always needed help and support. The GP added 'her daughter ST (sic) is helping her, leaving work at times to support her and calm her down by talking to her'. Bearing in mind that the partner works full time we place limited weight on the assistance of the daughter. The letter of Dr Hussain made no mention of the appellant. Further, we were not provided with the mother's medical notes. Overall, there was no comprehensive or detailed assessment of needs or requirements on which to rely.

38. In terms of the appellant's latest statement dated 29th July 2024, he stated if he were removed from the UK the partner would be left alone to shoulder the responsibilities of the mother and grandmother. Bearing in mind that the grandmother is married, they live in separate accommodation and the other siblings regularly visit, once again, we do not accept that the position is as described by the appellant.

39. We turn to the consideration of Article 8 outside the Rules. We considered the relationship between the appellant and partner and his in laws family on a Kugathas v Secretary of State for the Home Department [2003] EWCA Civ 31 basis. The touchstone is whether the support is real or committed or effective. We enlist the factors we have considered above as to the level and extent of support provided by the appellant and partner to the extended family. We have addressed the appellant's claims that owing to the health of the grandmother that the appellant and partner both provided indispensable care and support to the grandmother and mother (in law) and refer to our findings above. There was no indication of financial support and in the absence of further information we are not persuaded that, even though there are family ties, that there is Article 8 protected family life. The grandmother is married and lives with her husband and with her daughter and her husband in a separate family home. The appellant and his partner live in their own home. Since their religious marriage and their separate accommodation we do not accept that Article 8 family life has been retained between the partner and her family, nor exists between the appellant and his in laws.

40. Even if we are wrong about and family life does exist between the two households, we still consider that the intensity of family life is lessened not least because the grandparents and parents have

formed their own family home albeit with some outside support and the assistance of the extended family being the partner's siblings.

41. Section 117B sets out:

> "(1) The maintenance of effective immigration controls is in the public interest.
> (2) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—
> (a) are less of a burden on taxpayers, and
> (b) are better able to integrate into society.
> (3) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—
> (a) are not a burden on taxpayers, and
> (b) are better able to integrate into society.
> <u>(4) Little weight should be given to—</u>
> <u>(a) a private life, or</u>
> <u>(b) a relationship formed with a qualifying partner, that is established by a person at a time when the person is in the United Kingdom unlawfully.</u>
> (5) Little weight should be given to a private life established by a person at a time when the person's immigration status is precarious."

42. Adopting a balance sheet approach, against the appellant is that little weight should be afforded to a relationship formed with a qualifying partner that is established by someone, as here, where the appellant was in the UK unlawfully. It was stated that no attempt had been made to remove him and the legal landscape was changing in ETS cases, but if anything more reliance can now be placed on the respondent's evidence in such cases. That is not to say that each case should not be considered individually and we appreciate that each case is fact sensitive, but we do not consider the failure to remove the appellant against the background of the appellant's knowledge that his leave had been curtailed owing to the sponsor college losing its licence and the subsequent refusal of leave on the sustainable finding of fraud, lessens the weight to be attributed to the

Secretary of State's position. Deception is a factor which weighs heavily in Article 8 cases.

43. The appellant's partner has a choice to make as to whether she departs with the appellant or remains with her family.

44. In the overall circumstances we do not consider that there would be unjustifiably harsh consequences in removal. At least none were brought to our attention. The Secretary of State's position is set out in the Immigration Rules which the appellant, for the reasons given above, cannot fulfil. We have found the evidence deficient and the oral evidence discrepant and thus afford less weight to the assertions that the separate family household of the in-laws cannot cope without the appellant and his partner's input.

45. We acknowledged that the appellant has now forged some links in the UK, has a partner here and has spent nearly 14 years in the UK.

46. We make no finding that the partner gave untruthful evidence, rather that the appellant has over embellished his evidence and the partner perhaps unwittingly supported him in an effort to retain him in the UK.

47. The appellant cannot meet the Immigration Rules. On balance we consider that there are no unjustifiably harsh consequences on his removal, Agyarko [2017] UKSC 11, and his partner can decide whether she wishes to remain in the UK or leave with the appellant. We thus dismiss the appeal on all grounds.

Notice of decision

The appellant's appeal is dismissed on all grounds.

Helen Rimington
Judge of the Upper Tribunal
Immigration and Asylum Chamber

9th September 2024