



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2022-006675

First-tier Tribunal No:
HU/55990/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 7th of May 2024

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

AMIRA DHAES
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E McKay, solicitor

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

Heard at 52 Melville Street Edinburgh on 30 April 2024

DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The appellant appeals with permission against the decision of First-tier Tribunal D H Clapham promulgated on 11 June 2022 dismissing her appeal against a decision of the Secretary of State made on 17 September 2021 to refuse her entry clearance to the United Kingdom.
2. Both parties agreed that the decision of the First-tier Tribunal involved the making of an error of law. That is because the judge failed properly to address the evidence going relevant to the issue of proportionality; and,

failed to identify whether there was a family life for the purposes of article 8.

3. In the circumstances, the appeal will in effect have to be heard again and thus I am satisfied that it is in the interests of justice to remit it to the First-tier Tribunal for it to make a fresh decision. The finding that the appellant and sponsor as claimed is preserved.
4. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. The appeal is remitted to the First-tier Tribunal. The finding that the appellant and sponsor and mother and son is preserved.

Signed

Date: 30 April 2024

Jeremy K H Rintoul
Judge of the Upper Tribunal