



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos: UI-2022-006706
FTT no: HU/50971/2021
IA/03377/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 11 September 2024**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**Irfan Bashir
(no anonymity order made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: -
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

Heard in Edinburgh on the 3rd September 2024

DECISION AND REASONS

1. The Appellant is a national of the Pakistan date of birth 1st January 1982. He appeals with permission against the decision of the First-tier Tribunal (Judge Grant-Hutchinson) to dismiss his appeal on human rights grounds.
2. It was the Appellant's case before the First-tier Tribunal that he qualifies for leave to remain under the terms of what was then paragraph 276ADE(1)(iii) of the Immigration Rules. He submitted that he had arrived in this country in January 1999 and states that he has lived here ever since.
3. Judge Grant-Hutchinson's decision sets out the evidence that the Appellant gave. It then sets out the evidence of three witnesses who appeared before the Tribunal: Muhammad Asif Khan, Shaheed Tajdin, and Khawaja Muhammad Nadeem. Having considered all of this evidence Judge Grant-Hutchinson dismisses the appeal on the grounds that the evidence of the witnesses was too vague to be reliable about when the Appellant arrived and when.

4. On the 3rd January 2022 First-tier Tribunal Judge Carolyn Scott granted the Appellant permission to appeal on one narrow ground: that the Tribunal overlooked what is said to be important evidence in the form of a witness statement from a Mr Abdul Rasheed Saroha.
5. At the hearing before me there was no attendance from either the Appellant, or his representatives JK Law. Before proceeding in their absence I considered whether I could justly dispose of the appeal in so doing. I took the following matters into account. First that there has been no communication either from the Appellant or his representatives since the grounds were lodged in 2021. Permission was granted in this matter on the 3rd January 2022, and the parties were informed; the Tribunal wrote to the Appellant at his last known address, and informed the representatives by email. On the 5th June 2024 standard directions were sent in preparation for this appeal being listed. No response was received from the representatives; the letter to the Appellant was returned, presumably as 'not known at this address'. I am now told that the Appellant's representatives have gone into administration. Whether or not that is correct it is obviously the Appellant's responsibility to keep in touch with the Tribunal and to keep it informed of his up to date contact details. In the absence of any contact for over 2 ½ years I cannot be satisfied that there is any realistic prospect of the Appellant attending any further hearing should this case be adjourned today. It is not in the interests of justice that this appeal be allowed to subsist indefinitely. I therefore proceeded to hear the brief submissions of Mr Diwnycz before reaching my decision.
6. The sole ground upon which permission has been granted is that Judge Grant-Hutchinson omitted to weigh in the balance the written evidence of Mr Saroha. I agree that this evidence is not mentioned in the decision, and that being the case I accept that I can have no confidence that it was in fact taken into account. It is an error to omit to consider evidence.
7. I am not however satisfied that in this case the error is such that the decision should be set aside. That is because the evidence of Mr Saroha, even taken at its highest, adds very little if anything to the evidence given by the other witnesses. Mr Saroha says that he saw the Appellant in London in 2001, and more recently in Glasgow in 2019. As to the intervening years he states that they have been "in continuous contact with each other via telephone". Although it is fair to say that the statement hints at more direct contact – Mr Saroha for instance states that his children know the Appellant as "uncle" – it says nothing at all about when and where such contact might have taken place. It is therefore of very limited evidential weight when it comes to assessing whether or not the Appellant has in fact spent the past 25 years continually residing in the UK. I am not satisfied that this evidence would, or could, have made any difference to the overall outcome in this matter.

Decisions

8. The decision of the First-tier Tribunal is upheld and the appeal is dismissed.
9. There is no order for anonymity.

Upper Tribunal Judge Bruce
Immigration and Asylum Chamber

3rd September 2024