



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2024-003957

First-tier Tribunal No:
EA/50408/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 22nd of January 2025

Before

UPPER TRIBUNAL JUDGE HOFFMAN
DEPUTY UPPER TRIBUNAL JUDGE MERRIGAN

Between

JOYCE ANNORBEA
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms P. Glass, Counsel (instructed by SRA Law Limited)
For the Respondent: Ms S. Cunha (Home Office Presenting Officer)

Heard at Field House on 3 December 2024

DECISION AND REASONS

Introduction

1. The appellant is a citizen of Ghana. She appeals against the decision (“the decision”) of First Tier Tribunal Judge T. Rakhim, promulgated on 14 July 2024. Asked to decide whether the appellant’s marriage was genuine, the judge decided that the appellant had failed to prove on the balance of probabilities that it was; and so he found that the appellant was not a family member of the relevant EEA citizen, Mr J. Fenuku (“the sponsor”).
2. The appellant was born on 16 August 1983. She has stated that she first met the sponsor, a citizen of Italy but residing in the UK, on 14 February 2002 and that their relationship commenced on 1 March 2002. A

document before us entitled “certificate of marriage” is dated 1 February 2006 and relates to a marriage ceremony said to have taken place on the same date in Ghana (hereafter, “the marriage ceremony”). Both the sponsor and the appellant assert that they have each signed this certificate of marriage and that it records their marriage in Ghana. The signature thereon said to be that of the appellant appears as her name, handwritten in lower case letters.

3. In a brief witness statement dated 1 December 2023, the sponsor asserted that he and the appellant share four children and lived together in Italy between 2010 and 2020, when he moved to work in the UK. The appellant stated that she had not seen the sponsor since 20 October 2021.
4. The appellant applied for an EUSS Family Permit on 20 January 2023. The respondent refused this application on 3 April 2023. The appellant appealed the refusal on 2 May 2023.
5. The refusal letter stated as follows.

“...you have not signed the marriage certificate and instead your name is written in print and does not match the signature in your passport or residence card. It is also noted, again as per your previous application, that the signature of your EEA sponsor does not match the signature as shown in their passport.

...you have now provided an Authentication of Ordinance marriage certificate letter dated 20 December 2022...It does not confirm that both you and your EEA citizen sponsor attended the marriage ceremony as stated on your visa application form and it does not provide an explanation as to why both your signature and your sponsor’s signature does not match the signatures shown in your passports.”

6. It was agreed by advocates before the First-tier Tribunal that the sole issue in dispute was whether the marriage was genuine. In addition to the documents already mentioned, the appellant supplied an Italian certificate, which translation is entitled “Contextual registry certificate of marriage, residence and family status” dated 23 July 2020. That document states “*They appear to have been married on 01/02/2026 in Accra (Ghana)*”. It also lists the names and dates of birth of the appellant, sponsor, and four children as a “*registered family*” in the municipality of Reggio Emilia. It is referred to hereafter as “the registry certificate”.
7. The judge heard submissions on behalf of both parties; and oral evidence from the sponsor. As to the question of the appellant’s signature, the judge did not have the benefit of a handwriting expert. The appellant did provide a statutory declaration dated 27 September 2023 (“the statutory declaration”) that asserts the signature on the certificate of marriage is her own. The judge decided as follows.
 - a. Considering the appellant’s signature as written on the documents in the judge was referred to, he found that the odd signature out was that on the marriage certificate. The signatures on her two Italian residence cards, passport and statutory declaration all match [12{ii)].

- b. There was no explanation for why the appellant should have two different signatures [12(iii)]. It was submitted by her counsel that the appellant's excitement would account for the difference, but the appellant had not herself offered this explanation in her statutory declaration [12(iv), (v)].
 - c. Further documents on which the appellant relied (two certificates from the Deputy Judicial Secretary and a letter from a director in the Registrar of Marriages: hereafter, "the Italian documents") did not evidence why the signature on the marriage certificate is different to the other signatures, or whether the appellant attended the marriage ceremony at all [13, 14].
8. As such, the judge decided that he could not be satisfied the appellant (or the sponsor) signed the certificate of marriage [23(i)]. Moreover, with only two photographs of the marriage ceremony and it being unclear what the appellant and sponsor appeared to be signing, there was insufficient evidence to demonstrate they attended the marriage ceremony as they described [15]. The judge therefore decided he could not be satisfied that a valid marriage had been effected [23(i)].
 9. Finally, the judge made findings as to the appellant's relationship with the sponsor overall at [23(ii)]. We reproduce that paragraph in full.

"The Sponsor says they have been in a relationship for 22 years. There was limited evidence to support this. There are simply x2 photos taken in the same location with nothing more. The untranslated Italian documents did not assist me. There was no conclusive [sic] of the couple having lived together 2010-20 in Italy, or that they lived together in Ghana prior to this. Evidence of having children together does not equate to evidence of a relationship; albeit it may well be indicative, that alone would not suffice as their own case is that they last had a child together in 2018, and they have been living apart in different countries for 4 years. There was no evidence that he had been regularly visiting her as he claimed or keeping in touch. There was no evidence of any ongoing relationship such as calls, messages, photos, social media, correspondence, supporting letters, etc."

10. Before moving to the grounds of appeal we note that the judge recorded at [8] of his decision that he had a stitched bundle of 93 pages. The judge specifically referred to the registry certificate at [17]. The judge set out its contents, adding "*the document attracts little weight as it has not been translated*". The judge further stated at [18]: "*There were a number of Italian documents. There was little that could be done with these as there were no translations. I was unable to place any weight on these*".

The Grounds of Appeal and the Grant of Permission

11. The grounds of appeal are dated 26 July 2024. Having been refused permission by First-tier Judge Thapar on 13 August 2024 on the basis that the grounds amounted to no more than a disagreement with the judge's findings, the appellant was granted permission to appeal on all six grounds by Upper Tribunal Judge O'Brien on 1 October 2024. Judge O'Brien stated that he did not understand the thrust of ground 1 as drafted, but envisaged that the appellant would be able to explain further at the

appeal hearing before ourselves. Judge O'Brien noted in particular that, per ground 2, the judge referred to certain Italian documents for which he said there was no translation, notwithstanding that there appeared to be translations in the stitched bundle.

12. Turning to summarise those grounds, ground 1 cites to R (on the application of Molina) v SSHF [2017] EWHC 1730 albeit, as Judge O'Brien observes, its thrust is not clear. Ground 2 argues that the judge failed to consider available translation documents that went towards demonstrating that the appellant signed the certificate of marriage as she asserts. Ground 3 asserts that the appellant wrote both versions of her signature on the statutory declaration, and so the declaration is evidence that both versions are genuinely of the appellant's hand. Ground 4 argues that the judge should have relied on the fact that the Italian authorities took the marriage ceremony to be genuine to find that it is genuine. Grounds 5 and 6, which take the form of submissions, serve to amplify ground 3, with ground 5 stating that the appellant provided sufficient evidence to demonstrate that the signature on the certificate of marriage is her own; while ground 6 argues that the length of time between the marriage ceremony and the present date, some 22 years, of itself shows that the marriage is genuine.

Submissions

13. Ms Glass in her submissions today did not seek to advance ground 1.
14. On ground 2, Ms Glass argues that, it being the duty for a judge to consider all relevant information in the bundle, it follows that the judge did not do so: for if he had, he would have encountered and considered the translations, particularly that of the registry certificate. Ms Cunha accepts that the translations were in the stitched bundle before the judge. She submits however that it is an immaterial error, as the registry certificate demonstrates only that the appellant, the sponsor and the four children were registered as a family in July 2020, while the other Italian documents add nothing at all for the reasons set out by the judge as above.
15. Taking grounds 3, 5 and 6 together as Ms Glass has presented them, it is argued that that the appellant in her statutory declaration said enough to justify why she has two different signatures. Ms Glass submits that the one on the certificate of marriage is in her "legible style", while the style on the other documents she has produced is her "cursive style". This, Ms Glass says, is a cultural issue, and a matter of calligraphy. It should not outweigh the overall evidence that depicts a 22-year marriage producing four children. Ms Cunha states that this is an unsupported assertion.
16. Ground 4 notes that the Italian authorities were content to rely on the marriage certificate; and the judge should have taken this into account. Ms Glass relies on the ground as drafted, submitting that "*it is very difficult to accept that a document which a European Country has accepted would be declined by the United Kingdom*". Ms Cunha says that the judge conducted a cogent, well-rounded fact-finding exercise and would have been wrong simply to take the Italian documents at face value.

Decision - Error of Law

17. We cannot see that there is any merit in ground 2 at all. The judge set out at [17] the contents of the registry certificate, notwithstanding he did not read its translation. Ms Glass has not identified any point of information contained therein that the judge missed. Notwithstanding that the judge stated he gave it little weight on the basis of, wrongly, assuming it had no translation, he went on to say:

“Even if it is accepted that they have children together, this does not demonstrate an ongoing relationship at the point of application or at present.”

18. We agree with Ms Cunha that this deals with the translation issue: the judge has adequately explained why he is not assisted by the registry certificate, and so the question of how much weight it is to be given does not arise. The same applies to the rest of the Italian documents. Ms Glass, quite simply, has not been able to show us how the other Italian documents, translated or otherwise, support the appellant’s assertion that she signed the certificate of marriage or that they evidence an ongoing relationship.

19. Turning to grounds 3, 5 and 6 together, we consider that they amount to no more than re-arguing the same points. The statutory declaration asserts rather than proves that the appellant has two signatures. It does not provide a satisfactory explanation of why this should be the case. A new explanation – that this is a cultural issue and that it is perfectly natural for a person to have two signatures – is merely advanced by Ms Glass rather than being substantiated by the appellant. We agree with the judge that the wider evidence of their relationship is limited.

20. As to ground 4, we are not aware of what evidence the Italian authorities had before them prior to producing these documents, and so we cannot know the basis on which the Italian authorities were prepared to take the certificate of marriage at face value. The registry certificate records only that *“they appear to have been married”*: there is no indication that any fact-finding exercise was conducted beyond a simple check to see that the certificate of marriage appeared to be in the proper form. By contrast, the judge was tasked with probing the concerns raised by the respondent as to whether the appellant had signed the certificate of marriage, or had been present at the marriage ceremony at all. Accordingly, we cannot, as Ms Glass invites us to do, adopt the conclusion of the Italian authorities that the certificate of marriage is genuine; nor do we consider that the position of the Italian authorities adds any weight to the appellant’s case.

21. The judge correctly identified that it was for the appellant on the balance of probabilities to show that she was the sponsor’s wife. He was not so persuaded, and her appeal failed, as she had not shown that she is a family member of an EEA citizen. That was the only issue before him. We agree with Ms Cunha that the appellant has raised nothing that comes close to demonstrating an error of law. Other judges may not have made the same findings at the judge, but we are satisfied that he was reasonably entitled to reach the conclusions that he did. Accordingly, the appeal fails.

Notice of Decision

The decision of the First-tier Tribunal did not involve an error of law. It follows that the appeal must be dismissed.

D. Merrigan

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

8 January 2025