



**Upper Tribunal
(Immigration and Asylum Chamber)
OA/01805/2013**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Manchester
On 13 November 2014**

**Determination
Promulgated
On 17 November 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE PLIMMER

Between

SONIA WAHID

Appellant

and

ENTRY CLEARANCE OFFICER, ISLAMABAD

Respondent

Representation:

For the Appellant: None

For the Respondent: Ms Johnstone (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellant is a citizen of Pakistan. She has appealed against the respondent's decision to refuse her entry clearance as a spouse dated 20 November 2012.

Procedural history

2. This is a matter that has previously been considered by First-tier Tribunal Judge Brunnen in a determination

promulgated on 29 November 2013, in which the appellant's appeal was dismissed. The appellant appealed against this decision on the basis that the Judge failed to take into account all the relevant evidence supporting the subsistence of the parties' marriage and also argued that the Judge failed to take into account a mistake of fact regarding the sponsor's employment. Judge Osborne granted permission on 25 March 2014, observing that the Judge may have given insufficient weight to the documentary evidence and failed to refer to **GA (Subsisting marriage) Ghana** [2006] UKAIT 00046.

3. The matter now comes before me to decide whether or not the determination contains an error of law.

Hearing

4. There was no appearance on behalf of the appellant, either by her representative or the sponsor.
5. Ms Johnstone asked me to dismiss the appeal. I now provide my reasons for dismissing the appeal.

Findings

6. Judge Brunnen made it clear that he considered all the documentary evidence [6]. He specifically referred to evidence of contact before him [10] including phone cards [12] and letters /cards [13]. He also took into account money transfers. I am not satisfied that the Judge failed to take into account the relevant documentary evidence.
7. Judge Brunnen observed that the phone accounts ran to some 211 pages yet they were not marked to show the relevant calls and he was provided with no analysis of them. Although Judge Osborne observed that Judge Brunnen could have invited Counsel to take him through the phone records, I do not consider his failure to do so amounts to an error of law. The burden of establishing the subsistence of the marriage rests on the appellant. Counsel could have drawn the Judge's attention to the relevant phone records during the course of the sponsor's evidence. The practice by some representatives of simply including pages and pages of telephone records without any short analysis or explanation of their relevance in an accompanying document or witness statement is unhelpful.
8. In any event, Judge Brunnen indicated that 'there are other decisive issues in this appeal' and he did not consider it necessary to devote hours to conducting an analysis of the

phone records. Judge Brunnen clearly did not accept that the parties were able to demonstrate as at the date of decision that the appellant met the relevant requirements on maintenance and has given adequate reasoning for this [17-22]. Judge Osborne has not made any observations about this aspect of the appeal or explained why permission should be granted in relation to the subsistence of the marriage issue if the relevant requirements on maintenance could not be met in any event.

9. The grounds submit that the Judge erred regarding maintenance because he failed to take into account the explanation that the sponsor had mistakenly said his shop failed in April 2012 when it actually failed in March 2013. This submission entirely fails to address the Judge's observation that 'he took care to ensure that the sponsor was not confused as to the date...' [18]. The Judge was entitled to consider a letter from Yaqub & Co as being of no probative value for the reasons he provides [19].
10. It follows from the Judge's findings that any argument under Article 8 was bound to fail as he made clear [25].
11. The grounds amount to no more than a disagreement with the Judge's findings and I dismiss the appeal.

Decision

12. I find that there was no error of law in the decision of the First-tier Tribunal decision and I do not set it aside.

Signed:

Ms M. Plimmer
Deputy Judge of the Upper Tribunal

Date:

14 November 2014