



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: VA/00314/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
on 23 October 2014**

**Decision & Reasons
Promulgated
On 27 October 2014**

Before

**Mr C M G OCKELTON, VICE PRESIDENT
& UPPER TRIBUNAL JUDGE MACLEMAN**

Between

ENTRY CLEARANCE OFFICER, OMAN

Appellant

and

AMMAR KUWATLI

Respondent

For the Appellant: no legal representative; Dr M Kouatly, sponsor, present
For the Respondent: Mrs M O'Brien, Senior Presenting Officer

APPLICATION FOR PERMISSION TO APPEAL NOT ADMITTED

1. By determination promulgated on 28 May 2014, First-tier Tribunal Judge Kempton allowed Mr Kuwatli's appeal against refusal of his application for a visit visa.
2. The ECO applied 4 days out of time for permission to appeal to the Upper Tribunal, explaining that the delay was due to a backlog, insufficiency of resources, and an oversight. The proposed grounds of appeal were that the judge purported to allow the appeal under the Immigration Rules, over which she had no jurisdiction, and that she gave no adequate reasons for suggesting that alternatively the appeal might have been allowed under Article 8 of the ECHR.
3. On 11 July 2014 First-tier Tribunal Judge J M Holmes purported to grant permission to appeal. However, his decision overlooks to deal with

whether time should be extended, so that was the first point for us to decide.

4. At first sight we would have been inclined to extend time. The explanation for the delay is not of great merit, but the period is short, and both aspects of the grounds are strong. A jurisdictional error, in particular, should not readily be allowed to go uncorrected.
5. However, Dr Kouatly drew our attention to circumstances which shed a very different light. He is the respondent's brother. The original application was made along with one by their mother. The application was also refused, and she also appealed. The cases were not linked. First-tier Tribunal Judge D C Clapham heard the mother's appeal after this case had been decided in the First-tier Tribunal. Before Judge Clapham, Dr Kouatly drew attention to the FtT outcome in this case. The ECO did not raise the points made in the application for permission now before us. Judge Clapham followed the decision by Judge Kempton, and allowed the mother's appeal. Dr Kouatly had not been advised on any application by the ECO to appeal to the UT in their mother's case.
6. We were able to ascertain from tribunal records that the time to apply has expired, and that no such application has been received. Mrs O'Brien had no information about the mother's case until the matter arose in course of the hearing, but having been given a short time to make enquiries, she was able to confirm not only that no such application had been made, but that a decision had been made not to seek permission.
7. The ECO having specifically decided not to challenge a decision made for identical reasons in the connected case of a close relative, we see no justification for allowing a late challenge here, even although the grounds are of (at least) arguable strength.
8. The application for permission to appeal is **not admitted**.



23 October 2014
Upper Tribunal Judge Macleman