



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

Appeal Number: IA/34809/2014

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 16<sup>th</sup> April 2015**

**Decision & Reasons  
Promulgated  
On 21<sup>st</sup> May 2015**

**Before**

**UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**REENA SADDAF AKRAM  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Patel of Highfields Solicitors

For the Respondent: Mr D Mills, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of Judge Carey made following consideration on the papers on 7<sup>th</sup> November 2014.

## **Background**

2. The appellant is a citizen of Pakistan born on 20<sup>th</sup> September 1990. She came to the UK as the wife of Wasim Aslam, a British citizen, on 5<sup>th</sup> February 2012 and, on 19<sup>th</sup> April 2014, applied for further leave to remain on the basis of her marriage.
3. The application was refused on suitability grounds because it was the Secretary of State's belief that the appellant had engaged in deception. The English language test produced by her to support her original application for leave to enter had been confirmed by ETS to have been obtained through the use of a proxy test taker. He was also not satisfied that the claimed relationship with Mr Aslam was genuine and subsisting or that they intended to live together permanently.
4. The judge dismissed the appeal on all grounds.
5. The appellant sought permission to appeal which was granted by Judge Nicholson on 23<sup>rd</sup> January 2015.

## **The Hearing**

6. At the commencement of the hearing Mr Mills confirmed that he was not in a position to prove the allegation of deception. In paper appeals such as this it was not the Secretary of State's practice to provide the necessary witness statements and printouts from ETS to establish that deception had taken place. He was therefore content with a finding that the decision to dismiss the appeal under paragraphs 322(1A) and 322(9) could not stand.
7. Mr Patel explained that the appeal papers had been prepared by the appellant's father-in-law without the benefit of legal representation and he had not provided evidence in relation to cohabitation or subsistence of the marriage, choosing to concentrate on the issue of deception. He accepted that there was a paucity of material before the Immigration Judge although he pointed out that there were letters in the respondent's bundle which established that she lived at [ - ], Bradford, which was the address of her parents in law and husband.
8. As the judge observed, it is a great pity that the appellant did not elect to have an oral hearing which might well have assisted her appeal. The most recent letter from the Bradford teaching hospital and the GP predates the application by approximately six months. There was almost nothing in the documents relating to Mr Aslam and no financial documents, such as bank statements or payslips, or any documents in joint names, no photographs and no evidence of any joint life together at all. The couple have no children.
9. In these circumstances it is very difficult to see how the judge could have done anything else but to conclude that the appellant had not discharged the burden of proof upon her to show that she was in a genuine and subsisting relationship with her husband.

**Decision**

10. So far as the decision under paragraph 320 is concerned, the judge erred in law and the decision is set aside. The refusal under the suitability requirements of Appendix FM does not stand. However the appellant is not able to meet the eligibility requirements for limited leave to remain, and her appeal against that decision is dismissed.

Signed

Date

Upper Tribunal Judge Taylor