



IAC-FH-CK-V2

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

Appeal Number: VA/03192/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 September 2015**

**Determination Promulgated  
On 7 October 2015**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN  
DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD**

**Between**

**ENTRY CLEARANCE OFFICER - BEIRUT**

Appellant

**and**

**MOHAMMAD SAFWAN HAKIM  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr E Tufan, Senior Home Office Presenting Officer

For the Respondent: Mr J Siriwardena, Counsel instructed by RSB Solicitors

**DETERMINATION AND REASONS**

1. The respondent, to whom we shall refer hereinafter as the claimant, is a national of Syria who appealed against a decision of the respondent on 20 May 2014 refusing to grant entry clearance for the purpose of a family visit. The judge allowed the appeal under paragraph 41 of HC 395.
2. The respondent subsequently sought and was granted permission to appeal on the basis that the judge lacked jurisdiction to make this decision, since family visitors only had rights of appeal in respect of

section 29 of the Equality Act 2010 and section 6 of the Human Rights Act 1998 as a consequence of the coming into force of section 52 of the Crime and Courts Act on 25 June 2013. That clearly predates the decision in this case.

3. Accordingly the only matters before the judge, it was argued, were human rights or equality matters. He had not made any findings in relation to such grounds. Permission to appeal was granted by a Judge of the First-tier Tribunal on 12 May 2015.
4. At the hearing before us Mr J Siriwardena appeared on behalf of the claimant and Mr E Tufan, Senior Home Office Presenting Officer appeared on behalf of the Entry Clearance Officer.
5. We indicated our provisional view, which was agreed to by both representatives, that the judge had materially erred in law in assuming a jurisdiction which he did not have. He had not considered Article 8 which would be the relevant ground of appeal other than the Equality Act matter (which was not raised in the grounds, though human rights were), but had simply allowed the appeal under paragraph 41 which he was not entitled to do. Accordingly the decision was in effect a nullity, the matter will have to be reheard at Hatton Cross before a different Judge of the First-tier Tribunal.
6. In light of the sponsor's mental health difficulties which were a central reason for the proposed visit, we express the hope that the appeal can be heard at as early a date as possible.

No anonymity direction is made.

Signed

Date

Upper Tribunal Judge Allen