



IAC-AH-KRL-V1

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

Appeal Number: IA/08451/2015

THE IMMIGRATION ACTS

**Heard at Bradford
On 14 March 2016**

**Decision & Reasons
Promulgated
On 9 May 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**WAJAHAT ASSAD
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Preston, Immigration Legal Advice Centre
For the Respondent: Mrs Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Wajahat Assad, was born on 23 April 1990 and is a male citizen of Pakistan. He appealed to the First-tier Tribunal (Judge Pickup) against the decision of the Secretary of State dated 17 February 2015 to

refuse his application to vary his leave to remain and to remove him from the United Kingdom. The First-tier Tribunal, in a decision promulgated on 3 July 2015, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. In essence, there is one ground of appeal. The appellant did not attend the First-tier Tribunal hearing nor was he represented. The judge recorded at [5] that, “despite reminders sent to the representatives there is no appeal bundle on the appellant’s behalf.” The judge proceeded to hear the appeal in the appellant’s absence. The respondent (in her Rule 24 response)

The Presenting Officer’s own record of the hearing:

‘no one attended the hearing the former reps withdrew representation prehearing and no evidence offered by the appellant. I relied on the RFRL [reason for refusal letter]. On return to the office, the appellant had filed some documents which simply denied the assertions made in the RFRL that he was working in breach [of his conditions of leave to remain].’

The appellant asserts that he had submitted a bundle of documents on 1 July 2015 (the date of the hearing) but this had not been placed before the judge. Permission has been granted on that basis.

3. The appeal is wholly without merit. The appeal was listed at 10 a.m. on 1 July 2015. The appellant’s bundle of documents appears from the papers in the court file to have been faxed to the Tribunal office in Manchester on that date but at 13:16 hours. It was for the judge to decide the order in which he heard the cases before him that day. It appears that he has determined the appellant’s appeal before the bundle of documents was received. The date of promulgation is immaterial; there was no evidence at all that the bundle of documents came into the judge’s hands before he had sent his decision for promulgation. For administrative reasons, there is often a delay between the judge “signing off” a decision and the actual date of promulgation to the parties. I am entirely satisfied that the judge did not overlook the appellant’s documents because they were not before him when he determined the appeal.
4. In any event, the documents add nothing to the appellant’s case. The appellant had been found by the respondent working in contravention of his leave conditions. It is also incontrovertibly the case that the appellant did not have a valid CAS (Confirmation of Acceptance for Studies) issued by an authorised educational sponsor. The appellant acknowledges that fact but complains that he was not given 60 days to look for another sponsor. Even by reference to the documents in the appellant’s bundle of 1 July 2015, he had not found another sponsor and, in any event, the respondent made it clear that she would not exercise her discretion outside the Rules and extend the 60 day period to the appellant because he had been found to be in breach of his conditions of leave to remain. The appellant, therefore, had no valid CAS and he had no 60 day period

within which to find a new sponsor so his appeal was bound to fail in any event.

Notice of Decision

5. This appeal is dismissed.
6. No anonymity direction is made.

Signed

Date 20 April 2016

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 20 April 2016

Upper Tribunal Judge Clive Lane