



IAC-AH-DP-V1

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

Appeal Number: IA/41544/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 17th December 2015**

**Decision & Reasons Promulgated
On 13th January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE I A M MURRAY

Between

**M A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No-one

For the Respondent: Mr Tarlow, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Pakistan born on 20th August 1985. He appealed against a decision of the Respondent dated 29th September 2014 refusing to grant him a residence card as confirmation of a right to reside in the United Kingdom as the family member of an EEA national exercising Treaty rights in the United Kingdom under the Immigration (European Economic Area) Regulations 2006. His appeal was heard by Judge of the First-tier Tribunal Majid on 27th May 2015. The appeal was dismissed in a determination promulgated on 1st June 2015.

2. An application for permission to appeal was lodged and permission was granted by Judge of the First-tier Tribunal Hollingworth on 17th August 2015. The permission states that it is arguable that at paragraph 5 of the decision, where the Judge refers to relying on the reasons of the Respondent in the refusal notice and drawing the appropriate inference from the omission of the Appellant to arrange any representative to attend the hearing, it is unclear what inference the Judge has drawn and on what basis. The permission states that it is also unclear what weight the Judge has attached to the statement furnished by the Appellant as no mention is made of this in the decision.
3. There is a Rule 24 response which states that the Judge correctly noted that the Appellant and the Sponsor failed to attend the marriage interviews and states that evidence has not been provided to demonstrate the genuineness of the relationship. The response also states that with regard to the grounds of application which cite numerous decisions relating to other family members and the issue of dependency, these have no relevance to the Appellant's circumstances as he does not fall within Regulation 8(2).
4. The Appellant did not appear for the hearing of this error of law hearing either in person or by representative.
5. The Presenting Officer made his submissions.
6. He submitted that the Home Office wrote to the Appellant and asked for additional documents to support his relationship with the EEA national and nothing was received from him. He submitted that the Appellant and his partner were asked on two occasions to attend interviews and did not attend on either occasion.
7. The Presenting Officer referred me to the refusal letter and submitted that in the First-tier Judge's decision some of his reasoning may be lacking but the Judge reached the only conclusion which could be reached in the circumstances. He submitted that there may be errors because of a lack of reasoning but they are not material errors.
8. He submitted that if I find there to be any material errors of law in the First-tier Judge's decision I should remake the decision, including the appropriate reasoning, but the outcome should be the same.
9. I accept that the First-tier Judge's reasoning in his decision is lacking. The Judge has however noted the terms of the refusal letter of 29th September 2014 and it is clear that he has considered the fact that the Appellant and his partner have been asked on two occasions to attend interviews and did not attend on either occasion and that the Appellant was written to by the Respondent and asked for documents to support his relationship with the EEA national but these were not sent.

10. Because of the lack of reasoning in the determination I find that there are errors of law but I find that these are not material errors of law.

Decision

I uphold the First-tier Tribunal's decision. The First-tier Judge's decision dismissing the Appellant's appeal, promulgated on 1st June 2015, must stand.

Anonymity has been directed.

Signed

Date

Deputy Upper Tribunal Judge I A M Murray