



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

Appeal Number: HU/05209/2016

**THE IMMIGRATION ACTS**

**Heard at Manchester.**

**Given ex-tempore on  
15<sup>th</sup> September 2017**

**Decision & Reasons  
Promulgated  
On 27<sup>th</sup> September 2017**

**Before**

**Upper Tribunal Judge Chalkley**

**Between**

**DAO TRONG TUAN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

*For the Appellant: Mr Mynott a Representative appearing on behalf of RBC  
Consultancy*

*For the Respondent: Mr C Bates, Home Office Presenting Officer*

**DECISION AND REASONS**

1. The appellant is a citizen of Vietnam, born on 23<sup>rd</sup> November 1972.

2. He entered the United Kingdom in July 2010. On 3<sup>rd</sup> February 2016, his application for leave to remain in the United Kingdom on the basis of his marriage was refused by the Secretary of State. The appellant appealed and his appeal was heard by First-tier Tribunal Judge Lloyd on 16<sup>th</sup> December 2016.
3. At paragraph 21 of the judge's determination, the judge found that the appellant plays a meaningful role in his stepdaughter's life and went on to find that he has a parental relationship with her, given that he has lived with her since late December 2013, and that she has no contact with her father. He accepted that the appellant had a family life in the United Kingdom with his wife, child and with his stepchild.
4. The judge accepted that it was not reasonable to expect the appellant's stepchild to leave the United Kingdom as she is a British citizen. However, the judge dismissed the appeal, rather than apply Section 117B(6).
5. At the hearing before me today, Mr Bates quite properly accepted that the judge had materially erred in law and invited me to allow the appeal.
6. The determination of Judge Lloyd is set aside, but the findings preserved. I remake the appeal and with the consent of the Home Office Presenting Officer this appeal is allowed.

No anonymity direction is made.

***Richard Chalkley***

Upper Tribunal Judge Chalkley

**TO THE RESPONDENT**  
**FEE AWARD**

As I have allowed the appeal and because a fee has been paid or is payable, and have decided to make no fee award / to make a fee award of any fee which has been paid or may be payable (adjusted where full award not justified) for the following reason. The application should have been allowed.

***Richard Chalkley***

Upper Tribunal Judge Chalkley

Date: 26 September 2017