



IAC-FH-CK-V1

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

Appeal Number: HU/08997/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 4 July 2017**

**Decision & Reasons Promulgated
On 11 July 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MISS ASHVINA LUXIMON
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr C Avery, Home Office Presenting Officer
For the Respondent: Mr J Gajjar, Counsel, instructed by Perry Clements
Solicitors

DECISION AND REASONS

1. This is what purports to be an appeal from the decision of First-tier Tribunal Judge Cameron promulgated on 22 December 2016. I use the expression “purports to be” because in this instance the Secretary of State’s application for permission to appeal is dated 9 January 2017. It does not acknowledge that it was lodged outside the fourteen day period prescribed and there was no material within the application giving an explanation for the lateness.

2. The purported grant of permission to appeal is dated 18 May 2017, and is made by First-tier Tribunal Judge Grimmett. I will read it in full.

“1. The respondent seeks permission to appeal, four days out of time, against the decision of First-tier Tribunal Judge Cameron promulgated on 22 December 2016 to allow the appellant’s appeal on human rights grounds against the decision of the respondent on 8 October 2015 to refuse her leave to remain. There is no explanation for the delay in making the application and I do not extend time.

2. Grounds 4 to 7 is a disagreement with the judge’s finding and shows no arguable error.

3. It is arguable that the judge erred in taking into account that the appellant is said to rely on support from her family in the UK when it appears they are without leave to be in the UK.”

3. This document has been the subject of discussion this morning between Mr Avery, who acts for the Secretary of State, and Mr Gajjar for the responding party. On the face of it, the application is out of time. Mr Avery concedes this. The judge refused to extend time. The purported grant of appeal is therefore a nullity because the judge only has power to grant permission to appeal if he or she has first extended the time within which to bring the application.

4. This is not a case of a judge omitting to mention the time point, where it can be inferred that the period was extended. Here the judge was alive to the application being out of time and expressly refused to extend time.

5. Mr Avery did not argue against my provisional view that this grant was a nullity. He drew my attention to the fact that (as would be obvious from the dates) the period during which the lodging of an application for permission to appeal was under consideration covered the Christmas and New Year break. This may, he conjectured, have been the justification, or the explanation at least, for the application being served late.

6. The difficulty is twofold: first that that Christmas and New Year break was not a matter relied on on the face of the application and secondly there is no evidence before me today of that justification. I am doubtful, even had there been some appropriate letter of explanation today, that this would have cured the grant of permission to appeal being null on its face.

7. In those circumstances I formally declare the purported grant of permission to appeal to be a nullity. In the absence of permission to appeal, I need say nothing about the underlying merit or otherwise of the grounds.

8. The decision of the First-tier Tribunal stands.

Notice of Decision

The purported grant of permission to appeal being declared a nullity, the decision of the First-tier Tribunal remains valid.

No anonymity direction is made.

Signed *Mark Hill*

Date

10 July 2017

Deputy Upper Tribunal Judge Hill QC