



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/32528/2015

THE IMMIGRATION ACTS

Heard at Field House
On 2 June 2017

Decision & Reasons Promulgated
On 4 August 2017

Before

UPPER TRIBUNAL JUDGE CRAIG

Between

Ms CHARMAINE ICILDA STERLING
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: in person

For the Respondent: Mr P Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant had appealed against the respondent's refusal to grant her a Certificate of Entitlement under Section 10 of the Nationality, Immigration and Asylum Act 2002, which appeal was refused by First-tier Tribunal Judge Rowlands.
2. DIJ McCarthy, when considering whether to grant permission to appeal, refused permission on the merits, as it was clear that the appellant was not entitled to a Certificate of Entitlement because she could not show that either of her parents had been born in the UK. However, he noted that jurisdiction was also challenged, in

his words, the grounds having contained “threatening remarks [which] are offensive and are ignored”, but which he considered might be arguable.

3. The grounds of appeal to this Tribunal are not signed, and there is no solicitor or counsel on the record as acting for the appellant. Furthermore, the appellant informed the Tribunal that she had no knowledge of what was in the grounds and had no input into their formulation. The relevant part of the grounds, dealing with the jurisdiction point, is as follows:

“Only the Higher courts have jurisdiction for nationality and citizenship, hence the reason the IA Judges have no authority to forced (sic) the Home office to act accordingly.

We have been instructed by counsel that we should report the breaches by the immigration Judge and the representing officer in the said appeal.

Misconduct and breaches of public office is a serious offence and bears a penalty of life imprisonment

We are contacting the relevant authorities for redress for the said appeal to ensure that civil, criminal and ECHR laws are not being violated by public officials”.

4. Just before the hearing, the appellant applied for an adjournment; her reasons for doing so were that the body to whom she had paid some £2,600.00, known as “Commonwealth Evaluators” (the person dealing with her being one Swaye Binns) had taken her money but had failed to provide a barrister for her or even give her copies of documents which had been sent to the court. I did not grant the adjournment (because the appeal was hopeless in any event for the reasons which appear below) but I am aware that “Commonwealth Evaluators” are known to this Tribunal, and that the offensive manner in which these grounds have been settled is by no means unique.
5. The website of this organisation states that they are offering “specialist services to commonwealth migrants”, said to include “legal services”, being “administrative support as [our clients] attain their right to abode in the United Kingdom”. It seems clear that amongst these services has been the settling of grounds of appeal and they have also taken money for these services. They are not solicitors and nor are they registered with the OISC. It would appear that this organisation is an unregistered/unregulated firm offering immigration advice.
6. Having expressed my concern as to this possibility, Mr Duffy, the Presenting Officer, handed me the note made by the HOPO at the First-tier Tribunal proceedings, from which it is clear that this organisation had had four appeals listed on the same day, in each of which the clients (which is what the appellants appeared to be) were represented by the same counsel, who was called in 2003. The HOPO’s note contains the following:

7. "Prior to the hearings commencing I said that I was a little surprised to see her as I had mentioned to her on 21 October 2016 (she appeared in another Commonwealth Evaluators' appeal on that day ...) that Commonwealth Evaluators appeared as an unregistered/unregulated firm offering immigration advice. She went away and on return said to me that she had been instructed by a McKenzie Friend who is representing each of the [applicants] and that her clerks informed her that was an acceptable arrangement".
8. The HOPO was concerned about this explanation, as was I when I heard about it.
9. I note also that despite the claim to having been advised by counsel "that we should report the breaches by the immigration Judge and the representing officer in the said appeal", unsurprisingly no such report has been received. Nor does it appear that any of the "relevant authorities" to whom the alleged irregularities were going to be reported have been contacted either.
10. Notwithstanding Judge McCarthy's concerns, I am entirely satisfied that Judge Rowlands did in fact have jurisdiction to entertain the appeal, such that I indicated at the conclusion of the hearing that the appeal would be dismissed; the appeal itself had been dated 9 September 2014 and was stamped as received by the respondent on 15 January 2015, which was before the appeal rights changes came into effect in April 2015. By the transitional provisions, apart from protection claims or human rights claims (which this was not) the Rules applicable would be those in force at the date of application, not the date of decision, and as at the date of application the appellant had a right of appeal against the decision, the judge had been right to accept jurisdiction. (Even if the Tribunal had lacked jurisdiction, this would not have benefited the appellant because the respondent's original decision would still have stood and so quite how those drafting the grounds thought that the absurd and offensive suggestion that the judge could be liable to life imprisonment in respect of his decision could have been of any practical benefit to the appellant is unclear).
11. The reason why I did not merely dismiss the appeal in an extempore judgment immediately following the hearing was because I was concerned as to the conduct of the organisation to which the appellant had paid money and also that of her barrister before the First-tier Tribunal. For this reason I indicated that although the appeal would be dismissed, it was my provisional view that there should be a further hearing on 14 July when the conduct of those concerned could be investigated.
12. However, on further consideration I do not consider that a further hearing would be the appropriate way forward and accordingly give my decision now (the appellant having been notified that there would not now be a further hearing). It will be for others to consider whether the matters referred to above merit further investigation and if so, how this should best be achieved.

13. For the purposes of this decision, it is sufficient if I record for the reasons given, this appeal is dismissed.

14. Decision

The appellant's appeal is dismissed. The decision of the First-tier Tribunal, dismissing the appellant's appeal, is affirmed.

Signed:

A handwritten signature in black ink that reads "Ken Craig". The signature is written in a cursive style with a long, vertical tail on the letter 'g'.

Upper Tribunal Judge Craig

Date : 3 August 2017