



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/14318/2016
HU/14324/2016
HU/14330/2016
HU/14333/2016

THE IMMIGRATION ACTS

Heard at Field House
On 9 August 2018

Decision and Reasons Promulgated
On 4 September 2018

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

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(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr B Panial, instructed by SEB Solicitors

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants are a mother and her dependent children who challenge the decision of First-tier Tribunal Judge N M K Lawrence to dismiss their appeal against removal on article 8 grounds. They were originally dependants of MTT (the husband of the first appellant and father of the child appellants: HU/14316/2016) and their appeals were decided as such by the Tribunal. He has subsequently withdrawn his application for permission to appeal.
2. Although the appellants initially sought an oral hearing, their representatives requested, on 25 October 2017, that the matter be determined on the papers. This was confirmed by the Tribunal on 26 October 2017 with directions for the all written evidence and submissions to be sent to the Tribunal and the respondent by 1 December 2017.
3. The appellants are Jordanian nationals born respectively on 4 October 1985, 9 August 2008, 30 March 2010 and 7 October 2012. MTT, the husband of the first appellant, entered the UK as a student on 12 January 2012 and thereafter obtained further extensions of leave on that basis until 30 January 2015, according to the judge (at paragraph 2) and the respondent's decision letter (at p.2 of 19). On 29 February 2016 he sought leave to remain on human rights grounds with his family as dependants. This was refused on 24 May 2016. An appeal was lodged. Judge Lawrence dismissed the appeal by way of a determination promulgated on 29 December 2017. The appellants appealed against that decision and permission was granted by First-tier Tribunal Judge Boyes on 1 June 2018 on the basis that the judge had arguably not considered all the evidence. He directed that the appellants prepare a schedule setting out all the evidence that was before the judge.
4. On 8 February 2018, the appellants' solicitors wrote to the Upper Tribunal asking that the appeal of MTT be treated as withdrawn. It was stated that they would be making a SET (LR) application for him on the basis of long residence. On 20 February 2018 the Upper Tribunal confirmed the withdrawal. On the same date a letter was also sent to the representatives seeking to clarify whether the applications for permission on behalf of the other appellants were also to be withdrawn. No reply was received.

The Hearing

5. The matter then came before me on 9 August 2018.
6. Mr Panial notified the court that following his SET (LR) application, MTT had recently been granted indefinite leave to remain on the basis that he had completed ten years of lawful and continuous residence. He maintained, however, that the appeal was still pursued because the appellants had paid £6000 in fees.
7. I proceeded to hear submissions. The appellants were not present.

8. Mr Panial submitted that the judge had failed to properly consider the position of the child appellants. Each member of the family had established a private life. The respondent's decision was not proportionate, and the remedy was for the respondent to reconsider his decision and grant leave. The judge had not considered the s.120 notice. He submitted that the decision should be set aside, and the appeal should be remitted back to the First-tier Tribunal.
9. Mr Walker replied. He pointed out that at the date of the determination on the available evidence, MTT had not established he had completed ten years of residence. Although the situation had since moved on, the judge had not made any errors at the time.
10. In response to my queries, Mr Panial conceded there had been errors in the presentation of the appeal papers by the solicitors, but he argued that one could see what they were trying to achieve. The only way that all the matters could be taken into account would be at a hearing.
11. That completed the submissions. At the conclusion of the hearing I reserved my determination which I now give with reasons.

Discussion and Findings

12. I have had regard to the submissions, the judge's determination and all the other evidence on the Tribunal file.
13. The crux of the appellants' case is that the judge had not considered the s.120 notice which was forwarded to the Tribunal on 27 December 2017. It should be noted that this was six days after the preparation of the determination and twenty-six days after the date by which evidence should have reached the Tribunal according to directions issued on 26 October 2017. No explanation is provided for why it was sent so late or why directions were not complied with. There can be no validity in a complaint that the judge did not deal with material served out of time and after the determination had been prepared. In any event, the notice pertained to MTT and not only has he been granted leave to remain on long residence grounds, but he has also withdrawn his application for permission to appeal. In the circumstances this argument is academic and is no longer an issue before me since that withdrawal.
14. There has been no withdrawal in respect of the other appellants although their appeals were presented as dependent upon that of their father/husband. Mr Panial argued that each had his/her own private and family life and I have therefore proceeded to consider whether there is any merit in the complaint that the judge did not properly consider their positions.
15. The judge noted that the eldest child had been in the UK for at least seven years and that it was argued that it would be unreasonable to expect her to leave. He

commenced his assessment with that child's best interests (at 8). He also considered the best interests of the other children. He applied relevant case law (at 8-15). He took account of the reports submitted (at 16), school documents (at 17), and made appropriate findings (at 18-29, 35 and 37). He also considered the position of the adult appellants. I am now only concerned with the mother of the children as the father has withdrawn his application. No specific information relating to her has been put forward. The judge made his findings at 30-34 and 36. There is nothing before me to show that these contain any material errors.

16. The difficulty is that very little information was placed before the judge. The bundle is modest, and the appellants declined the opportunity to attend an oral hearing. The judge did his best with the available information. He has considered the position of the adult appellant and the children. His determination is sustainable and contains no material errors.

Decision

17. The First-tier Tribunal did not make any material errors of law and the decision to dismiss the appeals is upheld.
18. The application for permission to appeal made by MTT (HU/14316/2016) has been withdrawn.

Anonymity

19. I make an anonymity order.

Signed



Upper Tribunal Judge

Date: 16 August 2018