



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

Appeal Number: IA/14452/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 19 February 2018**

**Decision & Reasons
Promulgated
On 15 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

**MR ZIYA GORUR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Saeed, Counsel, instructed by Silvine Law
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is a challenge by the Appellant to the decision of First-tier Tribunal Judge Devittie (the Judge), promulgated on 30 May 2017, by which he dismissed the Appellant's appeal. That appeal had been against the Respondent's decision of 25 March 2015, refusing to vary his leave to remain and making a decision to remove him under section 47 of the Immigration and Asylum Act 2006. The Respondent's decision had been made on the basis that the Appellant's presence in the United Kingdom was no longer conducive to the public good because of two convictions; one for driving whilst disqualified, and the other for assault occasioning

actual bodily harm (that assault related to his ex-wife). The Appellant's case was predicated in the main on his claimed relationship with his minor daughter.

The judge's decision

2. The Judge finds that the Appellant had practised deception in failing to mention the two convictions in his latest application form [10-11]. Addressing the core issue in the appeal, namely whether the Appellant had a genuine and subsisting relationship with his daughter, the judge concluded that he did not. The reasons for this core finding are set out at [14]. In light of this finding the judge concludes that the best interests of the relevant child would not be adversely affected by the Appellant's removal. Finally the judge considers the Appellant's private life but concludes that this would not be breached by his removal from the United Kingdom.

The grounds of appeal and grant of permission

3. The grounds are drafted in somewhat vague terms. They refer to both the private and family life of the Appellant. It is suggested that the judge should have "remitted" the case back to the Respondent and that in any event he failed to adequately consider the circumstances of the Appellant's daughter. There is also brief reference to section 117B of the Nationality, Immigration and Asylum Act 2002 with particular reference to private life factors.
4. In granting permission to appeal, First-tier Tribunal Judge Robertson commented that he saw little merit in the ground relating to the daughter. However, as I read the grant, permission was not specifically limited.

The hearing before me

5. Mr Saeed focused his submissions on [14] of the judge's decision. He submitted that in applying the test of whether the Appellant's relationship with his daughter was "meaningful" or not, the judge had erred in law. The test in respect of section 117B(6) was whether there was a "genuine and subsisting parental relationship", not whether the relationship was "meaningful". The judge had failed to make any express finding that the Appellant did not have a genuine and subsisting parental relationship with his daughter.
6. Mr Kotas noted that the grounds of appeal had not expressly raised the issue of a misdirection in law by the judge. In any event, I was asked to look at his reasoning as a whole. The grounds did not challenge any of the

specific factual findings made. It was clear that the judge was in effect concluding that the Appellant did not have a genuine and subsisting parental relationship with his daughter.

7. In reply Mr Saeed reiterated his submission that the judge had applied the wrong test. In respect of private life, the grounds of appeal were relied on.

Decision on error of law

8. As I announced to the parties at the hearing, I conclude that there are no material errors of law in the judge's decision. In so concluding, I have viewed the decision as a whole and in light of the grounds of appeal and oral submissions made before me. My reasons for concluding as I do are as follows.
9. First, although it is correct that the judge uses the term "meaningful" in [14(vi)] and [15], he specifically finds, as an overarching finding, at the beginning of [14] that:

"...The Appellant has failed to demonstrate, I would say even on the lower standard, less still on a balance of probabilities, that he has a genuine and subsisting relationship with a child residing in the United Kingdom."

This makes it clear that the judge had in mind all along and applied the correct test applicable to the first limb under section 117B(6) of the 2002 Act. On this basis alone the Appellant's challenge falls away.

10. Second, in any event it is quite clear, taking the judge's various adverse findings holistically, that he was in effect finding that the Appellant did not have a genuine and subsisting parental relationship with his daughter (he had found as a fact that the Appellant was the biological father of the child). The findings made in respect of the lack of documentation, the use of funds by the child's mother, the ignorance relating to the child's address, the absence of evidence from the mother, and other matters contained in [14(i)-(vi)], all combine to make it abundantly clear that the judge was roundly rejecting the case put to him by the Appellant. With respect, Mr Saeed's submission about the precise use of terminology rather misses the point. In the context of the findings made in this particular case it is very difficult indeed to see any material difference between the term "genuine and subsisting" on the one hand, and "meaningful" on the other. The judge was rejecting the assertion that the Appellant had any contact with his daughter, still less that he had any sort of relationship that could properly be described as subsisting and/or meaningful.
11. Third, as Mr Kotas rightly pointed out, the grounds do not challenge any of the specific factual findings made by the judge. In any event, these findings were clearly open to him.

12. Fourth, the new evidence provided for the purposes of the hearing before me is of no relevance to whether or not the First-tier Tribunal made any errors of law.
13. Fifth, in respect of the Appellant's private life, the judge was fully entitled to conclude that any obstacles faced by him in respect of reintegration into Turkish society would not be very significant. On the evidence before him he was entitled to conclude that Article 8 would not be breached on this basis. There has been no suggestion that there was anything other than that was of a particularly significant or compelling nature in order for the Appellant to succeed on the private life grounds.
14. In light of the above, the decision of the First-tier Tribunal stands.

Notice of Decision

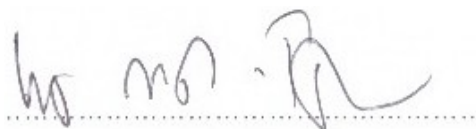
The decision of the First-tier Tribunal does not contain material errors of law.

The Appellant's appeal to the Upper Tribunal is dismissed and the decision of the First-tier Tribunal stands.

No anonymity direction is made.

Failure to comply with this direction could lead to contempt of court proceedings.

Signed



Date: 13 March 2018

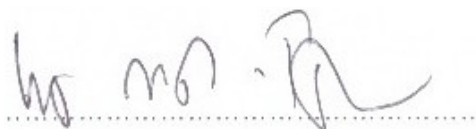
Deputy Upper Tribunal Judge Norton-Taylor

TO THE RESPONDENT

FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed



Date: 13 March 2018

Deputy Upper Tribunal Judge Norton-Taylor