



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal number: DA/00310/2018

THE IMMIGRATION ACTS

Heard at Glasgow
On 27 September 2019

Decision & Reasons Promulgated
On 1 October 2019

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MARCIN MODRZERJEWSKI

Respondent

Representation:

For the Appellant: Mr Govan, Senior Home Office Presenting Officer

For the Respondent: Mr Ndubuisi, of Drummond Miller, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but are referred to in the rest of this determination as they were in the FtT.
2. A panel comprising Designated Judge Murray and Judge Rea allowed the appellant's appeal against deportation under the Immigration (EEA) Regulations 2016.
3. Apart from restating the case put to the FtT and saying that its decision is "totally inadequately reasoned", the gist of the SSHD's grounds is that the FtT should not have found that the appellant had resided in the UK for 10 years, so as to acquire the corresponding degree of protection in terms of the Immigration (EEA) Regulations 2016, due to the lack of documentary evidence.
4. Mr Govan pressed that line of argument, and submitted that the decision should be set aside.

5. I was not persuaded. The SSHD made a justifiable point in the FtT that the documentary evidence was scanty, but it was up to the panel how far that went. The panel heard oral evidence and was entitled to accept it. The grounds are fundamentally no more than disagreement.
6. In any event, success on error of law would take the respondent nowhere. The appellant now has documentary evidence of employment in the UK unbroken from 2006 to 2017. Mr Govan said that was irrelevant to error of law, which is correct, but he accepted that it would fall to be admitted in any remaking of the decision. If that stage had been reached, there would have been no reason to find against the appellant.
7. The decision of the First-tier Tribunal shall stand.
8. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

30 September 2019
UT Judge Macleman