



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

Appeals: HU/00585/2016
& HU/00580/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 21 March 2019

Decision & Reasons Promulgated
on 10 April 2019

Before

**Mr C M G OCKELTON, VICE PRESIDENT
& UT JUDGE MACLEMAN**

Between

**ELHAM SHAKERIJAHROMI
& YASAMIN KHAKSAR**

Appellants

and

ENTRY CLEARANCE OFFICER, Istanbul

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Katani & Co,
Solicitors

For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal against the determination of FtT Judge McManus, promulgated on 13 December 2017.
2. The appellants are mother and daughter, citizens of Iran. The sponsor, Hamid Reza Khaksar, was present at the hearing in the UT. In view of the

circumstances as they came further into the light, we allowed time for consideration on behalf of the appellants, through their legal representatives and the sponsor, whether to proceed with the appeals. They elected to press their case to a conclusion.

3. The first appellant sought to enter the UK as the husband of the sponsor, who had been granted leave as a refugee. She provided a certificate of their marriage on 20 May 2006.
4. The ECO's refusal of that application, dated 27 November 2015, notes that Elham Yazdani is present in the UK with her husband, the sponsor. The ECO was not satisfied that the appellant was married to a person with refugee status in the UK, that the appellant intended to live together with the sponsor as his spouse, or that the marriage was subsisting.
5. The second appellant's application was refused on the same date. For similar reasons, the ECO was not satisfied that the appellant was part of the sponsor's family unit when he left his country of habitual residence to seek asylum, or that she was the child of a parent who was currently a refugee.
6. At the FtT hearing the position was presented through the sponsor, who said that his marriage to Elham Yazdani was a subsequent and temporary one, which has since broken down, and that his marriage to the first appellant was a subsisting one.
7. The appellant has never been granted asylum in his own right, but only as the husband of Elham Yazdani.
8. The immigration rules provide at paragraph 278:

'Nothing in these Rules shall be construed as allowing a person to be granted entry clearance, leave to enter, leave to remain or variation of leave as the spouse and civil partner of a man or woman (the sponsor) if:

- (i) his or her marriage or civil partnership to the sponsor is polygamous; and
- (ii) there is another person living who is the husband or wife of the sponsor and who:
 - (a) is, or at any time since his or her marriage or civil partnership to the sponsor has been, in the United Kingdom; or
 - (b) has been granted a certificate of entitlement in respect of the right of abode mentioned in Section 2(1)(a) of the Immigration Act 1988 or an entry clearance to enter the United Kingdom as the husband or wife of the sponsor.

For the purpose of this paragraph a marriage or civil partnership may be polygamous although at its inception neither party had any other spouse or civil partner.'

9. A provision extending that rule to children is at paragraph 296.
10. It was contended to us through the sponsor, although rather vaguely, that he disclosed the true nature and history of his relationship with Elham Yazdani to the SSHD when he arrived in this country and in the proceedings leading up to this appeal. We do not require to resolve that issue in order to decide this case, but it appears to us unlikely.
11. The appellants' case was rather vague on whether the relationship between the sponsor and Elham Yazdani was, as a matter of law, a marriage. If it was, then this case founders because it is contrary to public policy, as expressed in the rules, for a person to obtain status as the husband of a refugee and then to use that status to sponsor the entry of another wife, and of a child, in a polygamous arrangement.
12. If the relationship was not a marriage, then the sponsor does not appear ever to have been in a position legitimately to be granted status as the husband of a refugee; and however that may have come about, there is now no perceptible basis upon which he can maintain his claim to refugee status.
13. The sponsor has never had status as a refugee in his own right which would enable him to sponsor the appellants to enter the UK.
14. Mr Winter made a faint attempt to advance the case in terms of article 8, particularly regarding the second appellant. However, she has not lived with the appellant for most of her childhood; there was no evidence of the quality of their relationship; and there is no reason for the sponsor not to carry on family life with either or both of the appellants in Iran.
15. No error has been disclosed which might tend towards the decision of the FtT being set aside. Everything that has emerged shows the appellants' case, revolving around the sponsor, to be rather worse, not better, than was thought by the FtT.
16. The decision of the First-tier Tribunal shall stand.
17. No anonymity direction has been requested or made.



8 April 2019
UT Judge Macleman