



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

Appeal Numbers: HU/17093/2018
HU/17095/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 1 March 2019**

**Decision & Reasons
Promulgated
On 15 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**ROOKYAN [K] (FIRST APPELLANT)
MOHAMMAD [K] (SECOND APPELLANT)
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr G Davison, counsel instructed by S G Law Solicitors
For the Respondent: Mr N Bramble, Senior Presenting Officer

DECISION AND REASONS

1. The Appellants, nationals of Mauritius, dates of birth respectively 1 October 1967 and 20 August 1964, appealed against the Secretary of State's decision, dated 31 July 2018, to refuse leave to remain upon private life grounds. Their appeals came before First-tier Tribunal Judge F

M Eden (the Judge) who, on 13 November 2018, dismissed their appeals. Permissions to appeal was given on 21 January 2019.

2. At its heart this was undoubtedly a difficult case for the Appellants, given the time that they have been in the United Kingdom and their identified family circumstances here. The consideration which the judge gave to this matter, I conclude, helpfully set out with care the evidence which had been advanced and the conclusions which the Judge reached on that evidence. It is right to say I might not have reached the same conclusion, but that is not the basis of establishing any error of law.
3. Mr Davison argued, in essence, against the immigration history and the findings that the Judge made as to family life in the United Kingdom, that when weighing up either the difficulties in relation to reintegration or, in effect, the proportionality case, the Judge, had failed to assimilate those points into a proper consideration of the proportionality exercise. Although it was not in an appeal under the Immigration Rules, I did not agree with Mr Davison that the factors, for example, the eldest daughter of the Appellants having a condition of leukaemia or their second daughter having a fitting problem, because of epilepsy or fainting fits, or the health of the First Appellant's mother or the care and assistance they give to the eldest daughter of the First Appellant, constitute difficulties in terms of very significant obstacles to reintegration into Mauritius. Plainly, those matters would be of concern to them knowing of the family difficulties back in the UK, but their background and length of time and development in Mauritius did not seem to me to get close to showing the kind of obstacles that would prevent reintegration.
4. However, the stronger point that Mr Davison really argued, in my view, was that the findings that the Judge made, were not assimilated to show that the Respondent's decision was disproportionate. In a subsidiary argument, Mr Davison sought to find support for his points by reference to Section 117B of the NIAA 2002 as amended. It did not seem to me that the NIAA in really helped. It is simply a repetition of the same points that

he wished to make as to the lack of weight the Judge gave to a number of factors relied upon and recorded by the Judge. Rather the substance of his complaint was that there was a disagreement with the weight the Judge gave to the issues and the conclusions that the Judge reached.

5. It is possible, if one scrutinised most decisions with a very narrow view, to find some measure of inconsistencies and differences or shades of emphasis which might support a view that there is an error of law. However, one needed to read the decision fairly and as a whole, rather than descend into taking small details and disaggregating them for the purposes of arguing that there has been an error of law
6. It seemed to me that the Judge properly considered Article 8 outside of the Rules the circumstances as raised, the personal circumstances of the Appellants and the difficulties faced by their daughters for different reasons. It was unnecessary for me to descend into the question of whether or not the weight the Judge gave to those matters was an error of law for there was manifestly no arguable material error of law. For these reasons therefore, although this was not the outcome that the Appellants would like, I concluded that the Judge did enough to provide adequate and sufficient reasons for the conclusion that the appeals failed.

NOTICE OF DECISION

7. The Original Tribunal's decision stands. There was no material error of law. The appeals are dismissed

ANONYMITY

8. No anonymity direction was made, nor was one pressed for, nor is one required.

Signed

Date 12 March 2019

Deputy Upper Tribunal Judge Davey

TO THE RESPONDENT

FEE AWARD

The appeal has failed and therefore no fee award is appropriate.

Signed

Date 12 March 2019

Deputy Upper Tribunal Judge Davey