



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

Appeal Number: HU/22629/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 29 April 2019**

**Decision & Reasons  
Promulgated  
On 14 May 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHANA**

**Between**

**MRS BUTHIENA ABU KHAROUB  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Moran, legal representative  
For the Respondent: Miss K Pal, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Syria born on 1 January 1967. She appealed against the decision of the respondent dated 4 October 2018 to refuse her application for entry clearance to the United Kingdom under Appendix FM

to the Immigration Appeal Number: HU/22629/2018 on Rules on the basis of her family life with her son Mr Mohammad Ahmed Sharaf who is a recognised refugee in the United Kingdom.

2. The judge dismissed the appeal in a decision dated 1 March 2019. Permission to appeal was granted by Judge I D Boyes on 26 March 2019, finding it is arguable that the judge made serious and profound factual errors and arguably reached irrational conclusions and also it is alleged ignored healthcare evidence. Thus the appeal came before me.
3. At the hearing I heard submissions from both parties as to whether there is an error of law in the decision and whether the First-tier Tribunal Judge fell into material error. At paragraph 28 of the decision, the judge sets out the sponsor's profile as a person who is on no income, is in receipt of child tax credit, working tax credit, housing benefit and child benefit. He is also in receipt of council tax benefit. He also has four children to care for. For the reasons given about the sponsor's profile he found that the sponsor cannot maintain the appellant in the United Kingdom without additional recourse to public funds.
4. However that is not the sponsor's profile because he is a single male who has been recognised as a refugee in this country as has his brother and they live together in the same property. The judge has made a serious error of fact which amounts to material error of law. He has taken into account the wrong evidence for making his decision.
5. I therefore set aside the decision of the first-tier Tribunal and remake it after hearing submissions from both parties as I was of the view that there was sufficient evidence before me which I could consider after hearing from the parties.
7. The Immigration Rule that the appellant has to satisfy is that the appellant must prove on a balance of probabilities that as a result of age, illness or disability the appellant requires long-term personal care and this evidence must come from independent medical evidence provided. I have to consider whether the appellant's physical or mental condition is such that she cannot perform everyday tasks and requires long-term personal care. I also have to consider whether there is independent evidence that the appellant is unable, even with the practical and financial help of the sponsor in the United Kingdom, to obtain the required level of care in the country where she is living from any medical agency.
8. I have been referred to the case of **Britcits v SSHD [2017] EWCA Civ 368** at paragraph 58 to 59 where it was stated that the adult dependent relatives scheme is twofold. Firstly to reduce the burden of the taxpayer for the provision of health and social care services to those adult dependent relatives whose needs can reasonably and adequately be met in their home country and secondly to ensure that those adult dependent relatives can only be reasonably and adequately met in the United

Kingdom and only those should be granted full settlement status and full access to the NHS and social care provided by local Authorities.

9. It is also apparent from the immigration rules and the guidance that the focus is on whether the care required by the adult dependent relative can be reasonably provided to the required level in their home country. It must be reasonable both from the perspective of the provider and the perspective of the applicant and the standard of such care must be what is required for that particular applicant. These considerations include issues as to the accessibility and the geographical location of the provision of care and the standard of care. They are capable of embracing emotional and psychological requirements verified by expert medical evidence. It was stated that what is reasonable of course should be objectively assessed.
10. I have considered the evidence in this appeal in the bundle of documents provided at the hearing, totalling 190 pages. The appellant is from Syria and I take judicial notice of the fact that Syria is at war. She lives on her own and has various medical conditions as evidenced by the medical reports provided.
11. A letter from a director of Nawa National Hospital at page 53 of the bundle of documents states that the appellant is in a bad psychological state as a result of psychological stress. There is another letter from the Syrian Medical Association which states that the appellant has been diagnosed with major depressive disorder, accompanied with fear and suicidal thoughts and she visits the clinic every month for treatment and is in need for a long-term medication and psychological treatment under the care of her family and also states that such medicine has been prescribed.
12. A further letter from the Medical Association of Syria states that there is a lack of medicine and lack of the basic requirements for living given her medical condition and she has a thyroid and heart failure. This increases the probability of having blood clots. The doctor confirms in the letter that the patient needs daily care particularly from her children as they are the only people who are able to help her medically and mentally.
13. A letter from Dr Mahmoud Abdul Karim Al Khalili dated 17 January 2019 also points out that there is a medicine shortage and lack of medical care and the appellant's conditions would be better managed abroad. Although it is agreed that her condition is not life threatening at the moment but the letter states that it might deteriorate and her situation is likely to improve with family support. The doctor once again states that the appellant has been prescribed medication.
14. At first blush it appears that the appellant is receiving medical attention in Syria but the issue here and what has been highlighted to me by Mr Moran is that the medicine is not always available and there are shortages of medication in Syria and when the appellant does not receive the

medication that has been prescribed to her she suffers medically and emotionally.

15. For a person to be able to look after themselves two things are necessary which is their physical health and their mental health and both are equally important. There is clear evidence that the appellant's mental health and psychological stress are at such a level that she will not be able to perform the everyday tasks that are required of her.
16. I find there is evidence that she now requires the long-term personal care from her sons who live in this country. They are refugees and therefore cannot visit the appellant in Syria.
17. In the circumstances and having considered the evidence in the round and the jurisprudence for adult dependent relatives which has been pointed out to me in the skeleton argument, I find that the appellant does meet the thresholds to be granted entry clearance.
18. I also consider the respondent's reasons for refusal letter which states that the appellant has not demonstrated that her sponsor in the United Kingdom is able to support, maintain and accommodate the appellant without recourse to public funds.
19. Mr Moran very carefully took me through the documentary evidence to demonstrate that the income of both sons is above and over that required for a family of three to sustain themselves. There is also an accommodation report that the house where the sponsor and his brother live are adequate for six people.
20. I therefore set aside the decision of the First-tier Tribunal dismissing the appeal and substitute my decision and allow the appeal.
21. No anonymity direction is made.

Signed

Date this 10<sup>th</sup> day May 2019

Deputy Upper Tribunal Judge Chana

**TO THE RESPONDENT**  
**FEE AWARD**

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award.

Signed

Date this 10<sup>th</sup> day of May 2019

Deputy Upper Tribunal Judge Chana