



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/22801/2018

THE IMMIGRATION ACTS

Heard at Field House
On 27 February 2020

Decision & Reasons Promulgated
On 17 March 2020

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

MR ADOLF [A]
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Matthew Sowerby, Counsel instructed by Ince Gordon Dadds

For the Respondent: Mr Tony Melvin, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Mr Adolf [A], a Russian citizen aged 87, appeals with permission against the decision of First-tier Judge Row, who dismissed his appeal against the refusal of the Entry Clearance Officer in Sheffield to grant him entry clearance to join his daughter who lives in the United Kingdom.
2. The appellant is a widower: he has lived alone since 2011, when his wife died. He has a mental health problem which means that he is resistant to allowing others to look after him, but the sponsor visits every three months and cooks him food, which

he reheats himself when she is away, and he has a cleaner, who keeps his apartment reasonably tidy.

3. The sponsor, who is 59 years old, is a dual citizen of both the United Kingdom and Russia. Both the appellant and sponsor are receiving Russian state pensions. The sponsor has a business working as a tour guide in the United Kingdom, which she has established over a number of years: she is still working.
4. The First-tier Tribunal Judge accepted the limited evidence of the appellant's mental health condition, and stated that he had had considered the detailed evidence at pages 36 to 63, which would include the report of Dr Dobrokhotov. The Judge accepted that the appellant has a number of very significant health conditions, meaning that he requires long term personal care. "The evidence is that he is unlikely to accept such care but nonetheless he does require it. The issue then is whether this care can be provided in Russia".
5. The Judge noted the sponsor's evidence that she was not prepared to go back to Russia to assist her father because she had a life and a tour guiding business in the United Kingdom. The sponsor has a son, the appellant's grandson, who lives in Moscow with his wife and family, but the evidence was that he was not close to the appellant and was not prepared to assist his grandfather.
6. The Judge took into account the lack of state residential care, as well as a letter evidencing the availability of private residential care, at a cost of 27,000 roubles per month (about £318). The Judge concluded that:
 - "23. None of these documents assists the appellant much. They are concerned with the provision of residential social care. They do not deal at all with what practical assistance could be provided to the appellant in his home and at what cost.
 24. The evidence from the sponsor and from the cleaner was that the appellant lives alone. He does not accept assistance easily. The sponsor prepares frozen meals for him when she goes there and he heats these up himself. He does not bathe regularly. He has difficulty treating his ulcerated legs properly. His obsessive nature makes it difficult for anyone, including the sponsor, to assist him as he does not like to be touched. He would face that difficulty even if he were in the United Kingdom.
 25. The sponsor has not dealt with the issue of the provision of care in his home. Such care seems to be available. The cleaner refers to it in her letter. I do not know what services the providers listed at pages 98-112 can provide and at what cost because the sponsor has not provided this information.
 26. In any event *Zabota* can provide assisted residential care for £318 per month. This does not seem expensive. It is a lot less than such care would cost in the United Kingdom. The sponsor said that the appellant has a pension of 24,000 rubles per month. The sponsor has a state pension of 14,000 rubles per month and income from her business of roughly £30,000 per annum. Residential care in Russia would seem to be affordable and can

be privately obtained even if the state services were inadequate. It would seem likely that assisted care for the appellant in his home would cost a lot less than this although no information was provided about this.”

7. Permission to appeal was granted on the basis that the First-tier Judge had arguably failed properly to consider the medical evidence which appears at pages 47-50 of the appeal bundle, and in particular had failed to give proper consideration to comments made by Dr M Z Dobrokhotov of the Republican Psychiatric Hospital, which appears at page 48 of the appeal bundle. There is no challenge to the finding that Article 8 ECHR does not avail the appellant.
8. Mr Sowerby for the appellant argued that the Judge’s assessment of the evidence was inadequate and that the appellant had shown that he could meet the requirements of the Immigration Rules. He relied on the evidence of Dr Dobrokhotov and the *Zabota* letter about private residential care in Russia. Neither document is long or detailed.
9. Dr Dobrokhotov’s opinion is very brief:

“This document is given to [Adolf A], born on 05.10.1932, residing at: city of Cheboksary, K. Ivanova Street, 56A, to confirm the mental disorder diagnosis F42.2, F42.3 according to the ICD-10 (International Classification of Diseases, 10th revision).

The patient expresses thoughts and performs actions and rituals that prevent him from communicating with and accepting care from others. After the death of his wife, the patient has been living alone since 2011 and developed distinct inabilities in self-care.

The disorders are hereditary; they have been impeding patient’s active socialization throughout his life and force the patient to avoid direct body contacts with people outside the family circle.

These disorders make it impossible to conduct necessary medical and hygienic procedures; they limit normal urination and defecation and prevent medical procedures, including vital ones, from being done by unfamiliar persons, such as doctors, nurses, medical attendants, social workers.

The patient requires constant care.”
10. It is not clear why this resistance to personal care is considered to be hereditary. There is no suggestion that the sponsor or the appellant’s grandson have the same problem. The appellant has been living alone in Russia for nine years, since he was widowed, and photographs in the bundle show that while he has severe leg ulcers, the apartment and the appellant are clean and tidy and his freezer still full of food, presumably cooked by the sponsor. The First-tier Tribunal Judge took Dr Dobrokhotov’s letter at its highest, which was the correct approach.
11. The letter from *Zabota* merely records that residential care is available, and at what cost:

“Given to [SA] to certify that the cost of stay for one person in the *Zabota* assisted living residence for elderly people is 1,000 (one thousand) roubles per day, which is 27,000 (twenty-seven thousand) roubles per month.”

No further details of the available care at the *Zabota* residence are provided. There has been no investigation whether care could be provided for the appellant at home, over and above what his cleaner already provides.

Conclusions

12. The Upper Tribunal may interfere with findings of fact only in the very limited circumstances explained by Lord Justice Brooke at paragraph 92 of *R (Iran) & Ors v Secretary of State for the Home Department* [2005] EWCA Civ 982, and that standard is not met here. The First-tier Tribunal Judge considered all relevant material in the bundle, including Dr Dobrokhotov's letter and the *Zabota* letter, neither of which gives much detail.
13. Both were given appropriate weight and the Judge reached sustainable findings of fact and credibility, based on the totality of the evidence before him.

Decision

14. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Signed *Judith AJC Gleeson*
Upper Tribunal Judge Gleeson

Date: 8 March 2020