



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

**Appeals: UI-2022-000150
& UI-2022-000152
[HU/02466/2021 & HU/02467/2021]**

THE IMMIGRATION ACTS

Heard at George House, Edinburgh
on 14 September 2022

Decision & Reasons Promulgated
on 24 October 2022

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MANAL ALSHAER & ANAS ALSHAER

Respondents

For the Appellant: Ms K Dingwall, of Latta & Co, Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this determination refers to them as they were in the FtT.
2. The appellants are Palestinians, mother and son, who sought to join the first appellant's other son, who is a refugee in the UK. The respondent found that they did not meet the requirements of the immigration rules, and there were no exceptional circumstances requiring a grant of leave outside the rules.

3. On appeal to the FtT, Judge Farrelly held in a decision promulgated on 18 January 2022 at [20] that family life existed between the appellants, their sponsor and his wife, “a particularly close family unit ... real committed and effective support ... a situation of dependency”, and at [27 - 30] that “... it would be unduly harsh not to admit the appellants”, so that “the appeal succeeds under article 8”.
4. The SSHD sought permission to appeal to the UT. The main points in the grounds are (i) inadequate reasoning for the family life finding and (ii) no “exceptional circumstances” identified, so as to give the appellants rights to enter under article 8.
5. On 2 February 2022 FtT Judge Elliott granted permission, on the view that the Judge was entitled to make the finding of family life, but gave “no clear explanation why the first appellant’s situation meets the test for exceptional circumstances.”
6. Mr Mullen accepted that the grant of permission was in restricted terms. He conceded that reading the decision in light of established family life within the protection of article 8, the decision gave specific and adequate reasons for finding the proportionality balance to tip in favour of the appellants.
7. Accordingly, the SSHD’s appeal to the UT is dismissed. The decision of the FtT stands.
8. No anonymity direction has been requested or made.

H Macleman

14 September 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal’s decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is “sent” is that appearing on the covering letter or covering email.