



**Upper Tribunal
(Immigration and Asylum Chamber)**
IA/12224/2014

Appeal No:

THE IMMIGRATION ACTS

**Heard at Field House
promulgated
On 1 September 2014**

**Determination
On 9 September 2014**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL DIGNEY

Between

SARVAR AMANOV

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the respondent: Mr Duffy, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, a citizen of Uzbekistan, applied for a residence card as confirmation of a right to reside in the United Kingdom. That application was refused and an appeal against the decision dismissed. The application was refused because the respondent concluded that the marriage in question was a marriage of convenience and the judge who heard the appeal reached the same conclusion.
2. The grounds of appeal make four points: (i) the appellant said that he had sent witness statements and photographs to the court but no

mention has been made of these in the court proceedings; (ii) the judge refers to an entry clearance officer when this was an in-country appeal; (iii) there was a reference to a previous application; (iv) the judge said that a permanent residence card was being requested when this was not the case.

3. Permission to appeal was granted by Judge Simpson. She referred to the second and fourth of the above mentioned matters and added that the judge said that the respondent had discretion, which was not the case. She concluded that:
 - i. Altogether there were disclosed arguable errors of law arising from the judge's conceptions of the facts and law.
4. There is a rule 24 response which states that whilst there appear to be superficial errors in the determination these do not vitiate the decision. It is then said that in spite of the serious allegation, the appellant did not fully engage with the appellate process and sought a decision on the papers. The judge made clear findings on the question of a marriage of convenience and the appellant provided no evidence dealing with the points taken against him.
5. The points I have called (ii) and (iv) and the point that the judge granting permission made about discretion have no relevance to the decision at all and whilst they are errors they are not material errors and could not effect the decision in any way. The reference to a previous determination did not contain an error of law; the judge was entitled to do this.
6. The first allegation in the grounds, that the appellant said that he had sent witness statements and photographs to the court but no mention has been made of these in the court proceedings is different in nature. It is clear that these were not on the court file; see paragraph 11 of the determination. There is no evidence that they were ever sent and even now have not been. For such a point to become even arguable there would have to be, at the very least, evidence that documents were sent and there is no such evidence. It follows that there is here no error of law.
7. I turn to the core of this case. The law is set out in Papajorgi (EEA spouse - marriage of convenience) Greece [2012] UKUT 00038 (IAC). It is for the respondent to raise reasons for concluding that the marriage is one of convenience, and then it is for the appellant to prove on a balance of probabilities that it is not.
8. Here the respondent produces clear evidence as to the doubtful status of the marriage; see the paragraph that commences "On arrival at the premises" in the Reasons for Refusal Letter. It is then for the appellant to prove that the marriage is not one of convenience. That is something that he has plainly failed to do. He provided no evidence on the point at all. The judge gives clear reasons in paragraph 11 of the determination why he concluded that the marriage was one of convenience; that

conclusion was clearly open to him on the evidence. In those circumstances the judge's decision is properly reasoned on the crucial points in the case.

9. It follows that the original judge made no error of law. The original decision stands.

The appeal is dismissed

Designated Judge Digney
Judge of the Upper Tribunal
September 2014

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