



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: VA/02801/2014**

**THE IMMIGRATION ACTS**

**Heard at: Field House**

**Decision and Reasons**

**On: 3 June 2015**

**Promulgated**

**On 17 June 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MAILER**

**Between**

**ENTRY CLEARANCE OFFICER - ABU DHABI**

**and**

**MR USMAN HAMEED BUTT  
(NO ANONYMITY DIRECTION MADE)**

**Appellant**

**Respondent**

**Representation**

For the Appellant: Ms J Isherwood, Senior Home Office Presenting Officer  
For the Respondent: Mr Faisal Hameed Butt, sponsor

**DETERMINATION AND REASONS**

1. I shall refer to the appellant as the entry clearance officer and to the respondent as "the claimant."
2. The entry clearance officer appeals with permission against the decision of First-tier Tribunal C H O'Rourke, promulgated on 27 January 2015, to allow the claimant's appeal against the refusal to grant him entry clearance for a family visit.
3. The claimant is a national of Pakistan, born on 7 March 1979. He is sponsored by his brother, Mr Faisal Hameed Butt. In his grounds of appeal, the claimant stated that the reason for seeking entry for a limited period was '.....to visit his brother and his family, in particular, to attend his nieces birthday party' [9 iii]. The Judge noted that the issue was whether

the decision was lawful pursuant to s.6 of the Human Rights Act 1998 '.....in relation to Article 8 rights to a family life' [11].

4. The entry clearance officer was not satisfied that the claimant was genuinely seeking entry to the UK for a limited period. The Judge noted that the claimant had visited the UK on three previous occasions, returning to Pakistan each time, albeit that he stayed beyond the stated period of his visit on the last occasion. He has strong bonds in Pakistan, both familial and work related.
5. The Judge directed himself in accordance with the Razgar steps. He found that there had been an interference with the right to respect for family life as it is an entirely natural expectation of a family member to be able to visit a sibling and his family at their home, particularly for family events such as birthdays, graduations and also if, as seems to be the case here, those siblings are particularly close. He was impressed by the sponsor's evidence who seemed to have guilt for having led the claimant into this situation on the earlier occasion, and also his heartfelt plea as to the finality of his brother never being able to visit him again [17].
6. He struggled to see that the desire on the entry clearance officer's part to control improper immigration into the UK was "a genuine desire" [19]. This appeared to be an entirely genuine visit and he considered that the refusal cannot be proportionate, balanced against the claimant's sponsor's right to family life [20].
7. In granting permission to appeal, First-tier Tribunal Judge Cruthers found that it was arguable that the Judge may not have sufficiently addressed the question of whether or not the relationships between the people concerned here amounted to "family life" for Article 8 purposes.
8. Ms Isherwood relied on the grounds of appeal as well as the recent decision of the Upper Tribunal in the appeal of Adjei (visit visas - Article 8) [2015] UKUT 261 (IAC). She submitted that the first question to be addressed in a case where only human rights grounds are available on appeal, was whether Article 8 of the Human Rights Convention is engaged at all. If not, the Tribunal has no jurisdiction to embark upon an assessment of the decision of the ECO and should not do so.
9. She submitted that in this case, the First-tier Tribunal Judge had failed to have regard to the established case law regarding family life which will not normally exist between adult siblings.
10. I explained the position to Mr Butt who was given all the necessary documentation, including the decision in Adjei, prior to the hearing. I afforded him an opportunity to peruse the documentation which he did. He subsequently informed me that he understood the issues that had been raised.

11. He submitted in reply that the claimant has a good business. He wanted to come to the UK to attend his niece's birthday as well as visit his family. He would go back. He stated that he, Mr Butt, goes once a year to Pakistan. He said that his daughter, the claimant's niece, has also been to Pakistan on occasion.

## **Assessment**

12. I find that in considering whether there had been an interference with the claimants asserted rights, the First-tier Tribunal Judge failed to have regard to the notion of family life for the purpose of Article 8. He found that it was an entirely natural expectation to be able to visit a sibling and his family at their home, particularly for events such as birthdays. He found that the siblings are close.
13. However, the relationship between the claimant and his sponsor is one between adult relatives. As such, that discloses no aspect of dependency and is not in any way different to what might be expected between such relatives. There is no evidence of any particularly strong relationship on the evidence, nor between the claimant and his niece.
14. Nor was any reason given as to why those relationships could not be maintained in the way that they have been over the years. The sponsor has accepted that he as well as his niece has visited Pakistan. The sponsor visits at least once a year. There is accordingly no good reason why the UK based relatives cannot visit the claimant in Pakistan should they wish to do so.
15. In this case, the claimant has established his own family life in Pakistan. As found by the Judge, he has strong bonds in Pakistan, both familial and work related. The sponsor has previously taken his family on such visits and will continue such visits [12 (iv)]
16. I have had regard to the approach adopted in Adeji, supra, including the reference to the decision of the Human Rights Court in Advic v UK [1995] 20 EHRR CD125, that the protection of Article 8 does not extend to links between adult siblings living apart for a long period where they were not dependent on each other.
17. In this case, there is no evidence of such dependence between these siblings. Moreover, there must be more than normal emotional ties between adult relatives for family life to exist for the purposes of Article 8 of the Human Rights Convention.
18. Nor is the Judge's approach consistent with the earlier decision of Mostafa (Article 8 in entry clearance) [2015] UKUT 112 (IAC) where the Tribunal made it clear that they were dealing with a very narrow range of claimants. In practical terms, it was likely to be limited to cases where the

relationship is that of husband and wife or other close life partners, or a parent and minor child, but even then it will not necessarily be extended to cases where, for example, the proposed visit will not add significantly to the time the people involved spend together.

19. I find that the circumstances of the claimant and his relatives in the UK do not give rise to family life for the purposes of Article 8 of the Human Rights Convention.
20. For these reasons, the appeal to the Upper Tribunal by the entry clearance officer is allowed. I substitute a fresh decision dismissing the claimant's appeal.

No anonymity direction is made.

Signed

Date 15 June 2015

Deputy Upper Tribunal Judge Mailer