



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: AA/02468/2015**

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 6<sup>th</sup> November 2015**

**Decision and Reasons  
Promulgated  
On 4<sup>th</sup> February 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

**Between**

**RANIA ABDS ABDULWAHED  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Madubuke of AJO solicitors  
For the Respondent: Ms Johnson, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Rania Abds Abdulwahed date of birth 6 July 1982, is a citizen of Libya. Having considered all the circumstances I do not make an anonymity direction.
2. This is an appeal by the Appellant against the determination of First-tier Tribunal Judge Alty promulgated on 15 July 2015, whereby the judge dismissed the Appellant's appeal against the decision of the Respondent dated 26<sup>th</sup> January 2015. The decision by the Respondent was to refuse the Appellant's protection claim and human rights claim.

3. By decision made on the 10<sup>th</sup> August 2015 leave to appeal to the Upper Tribunal was granted. Thus the matter appears before me to determine in the first instance whether or not there is an error of law in the original determination.
4. The appellant had first come to the United Kingdom in August 2012 on the basis of a visit visa. She had returned to Libya in January 2013. She had then applied for a further visa but that was refused in April 2013. She applied for another visa in May 2013 but that was refused. Finally in September 2013 she had applied for a visit visa, which was granted. She travelled to the United Kingdom by direct flight arriving on 18 September 2013.
5. On 3 March 2014 the appellant applied for leave to remain as a partner. That application was refused. One of the documents in support of the application indicates that the appellant and her now husband, Mr Bali, have been in a relationship since May 2012. Mr Bali is a national of Libya, who has been in the United Kingdom for some 13 years and has a business here. However according to the evidence he has regularly returned to Libya. Certainly he had been to Libya twice in 2013 and once in February 2014 to visit his father. Mr Bali must have been to Libya at other times and commenced a "relationship" with the appellant in Libya, if the statement from their friend is to be believed.
6. The appellant and Mr Bali had married in December 2013. Thereafter the application on 3 March 2014 had been made. There were issues as to whether or not this was a genuine relationship. For whatever reason the application to remain on the basis of the relationship was refused. It may be that the appellant could not meet the requirements of Appendix FM as she was in the United Kingdom on the basis of the visit visa. Post the decision however it appears that the appellant is pregnant and was due to give birth at the time of the hearing before me.
7. The appellant had claimed asylum in September 2014 after the refusal of her marriage application. It was noted that the appellant had made no reference to any risk of mistreatment in her original marriage application.
8. Judge Alty had refused the Appellant's appeal on protection grounds. In respect thereof leave to appeal to the Upper Tribunal had not been granted. As set out within the Leave to Appeal decision the judge had made valid findings with regard to the credibility of the Appellant's account, giving valid reasons for rejecting the appellant's account, applying the correct standard of proof.
9. With regard to the claim on human rights grounds leave had been granted to appeal to the Upper Tribunal specifically in respect of Article 8. Judge Alty have followed the guidance given in the case of Razgar 2004 UKHL 27. The case advocated a five stage approach in considering family and private life and Article 8. The judge had found that this was a genuine and real marriage such that there was family life and then gone on to consider whether the decision significantly interfered with family life.

10. Within the leave it is suggested that the judge's conclusions at paragraph 48 of the decision '*that the appellant's removal would not have consequences of such gravity as potentially to engage Article 8* ' is not supportable.
11. Even if that were the case within paragraph 49 the judge has gone on to consider whether or not the remaining criteria set out within the case of Razgar 2004 UKHL27 are satisfied. The judge has proceeded on the basis that, if her conclusions in paragraph 48 that the decision would not so significantly interfere with family life are wrong, she had to consider the remaining steps set out within the case of Razgar.
12. In respect of the remaining criteria within Razgar as the appellant could not meet the requirements of the Immigration Rules the decision was in accordance with the law and, as found by the judge, was for the purposes of maintaining immigration control as an aspect of the economic well-being of the country. Those were conclusions the judge was entitled to make on the basis of the evidence presented. The final matter to be determined was whether or not the decision was proportionately justified.
13. In considering that issue it is suggested that the judge has failed to consider the statutory requirements set out in section 117 A - D.
14. In considering the criteria under Razgar the judge had noted the length of time that the appellant had been in the United Kingdom and the circumstances in which she had come to be married. The appellant had arrived on the basis of the visit visa on 18 September 2013. She did not claim asylum until 9 September 2014. That was after her application for leave to remain as a partner had been refused in March 2014.
15. The judge had also noted that the appellant's partner had twice been back to Libya in 2013 and once in February 2014. The judge had considered all the relevant circumstances in assessing whether or not the decision was proportionately justified.
16. In respect of this matter I would draw attention to the case of Dube (ss117 A-D) [ 2015] UKUT 90 (IAC). The case clearly establishes that judges were obliged to consider each of the factors set out within section 117A-D in considering the public interest. However there was no requirement for a judge specifically to refer to section 117A-D provided it was clear that the judge has in point of fact taken account of the factors set out within the section.
17. One only needs to look at paragraph 50, 51 and 52 to see that the judge has taken account of the factors.
18. The judge had noted that the appellant's partner have lived most of his life in Libya. Whilst he had been in the United Kingdom for about 13 years and has established a business, both the appellant and her partner had spent most of the lives in Libya and the partner had visited their regularly over the last few years. It was noted that his first language was Arabic as was first. It was noted that the appellant did not speak English.

19. The appellant was expecting a child but such child was at the time of the hearing yet to be born.
20. In approaching the issues with regard to the appellant the judge has considered the relevant factors within section 117A-D. The judge has given valid reasons for coming to the conclusions that she did. Having suggested that the decision itself did not significantly interfere with the article 8 rights of the party the judge has in any event gone on to consider whether even if it did the decision was proportionately justified. The judge has found that the decision was proportionately justified. The judge has fully justified that conclusion and has taken account of all appropriate factors.
21. In the circumstances the judge was entitled to make the decision that she did with regard to whether the decision was proportionately justified in was entitled to come to the conclusion that no one's article 8 rights would be breached by the decision taken.
22. There is a no material error of law in the determination. I uphold the decision to dismiss this matter on all grounds.

Signed

Date

Deputy Upper Tribunal Judge McClure