



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/02498/2017

THE IMMIGRATION ACTS

Heard at Field House  
On 7 August 2018

Decision & Reasons Promulgated  
On 24 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

MR RUBEL AHMED  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Islam MBE, Legal Representative  
For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

Background

1. The respondent refused the appellant's application for leave to enter on 10 January 2017. The application was based on the fact that he was a dependent child of his mother. The matter came before Judge Parkes sitting at Nottingham on 16 April 2018 and by a decision dated 20 April 2018 the appeal was dismissed.

The grant of permission to appeal

2. Permission to appeal was granted by Judge Simpson on 1 June 2018. It was granted on 3 grounds as the first 2 are really the same point.

- (1) The Judge appears not to have taken account of the fact that the appellant was a minor at the date of the application.
- (2) The Judge appeared to have adopted a higher standard of proof than the civil standard and failed to consider all the evidence.
- (3) There was not a structured Razgar [2004] UKHL 27 assessment.

#### Respondent's position

3. The respondent did not file a Rule 24 notice. Mr Avery was content to rely upon the decision which he said was sustainable and disclosed no material error of law.

#### Appellant's position

4. I have been provided with a skeleton argument on behalf of the appellant running to 5 pages dated 7 August 2018. It does not address the bases upon which permission had been granted and really tries to argue the case afresh, as indeed did Mr Islam before me. I noted all his submissions and tried to ensure he dealt with the points upon which permission to appeal had been granted.

#### Discussion

5. I am not satisfied a material error of law exists in relation to ground (1) as the Judge referred to it in [1] where he noted that this was an application for entry clearance as the dependent child of his mother, and [8] where he said that the appellant applied for entry clearance as a child of the sponsor, his mother. Nowhere in the decision is there any indication that he was looking at the appellant as an adult. It was plainly in his mind that this was a child.
6. In relation to ground (2) that there was an incorrect standard of proof, again one only has to look at the decision itself. It is clear from [2] that the Judge applied the correct standard of proof because he said that in order to succeed, the appellant must show that on a balance of probabilities the decision involved a disproportionate breach of human rights. Nowhere in the decision is there any suggestion that he applied a higher standard than that. There is therefore no merit in ground (2).
7. In relation to ground (3), it is plain from the decision that the Judge had Razgar in mind as he refers to it in [4] where he sets out the 5-step approach. The Judge went through all the evidence that was before him and made findings that were sustainable on that evidence. He focused on proportionality, which given the issues in the case was entirely appropriate. There was no material error of law in relation to ground (3).

#### Decision

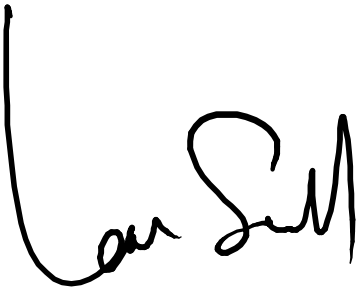
8. The decision of the First-tier Tribunal did not involve the making of an error on a point of law.
9. I do not set the decision aside.



Signed:  
Deputy Upper Tribunal Judge Saffer  
17 August 2018

**TO THE RESPONDENT**  
**FEE AWARD**

The appeal is dismissed and therefore there can be no fee award.



Signed:  
Deputy Upper Tribunal Judge Saffer  
17 August 2018