



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005548
First-tier Tribunal No:
EA/01064/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 28 April 2023

Before

UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE KEITH

Between

Isaac Kofi Kwarteng
(no anonymity order made)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr A Otchie, counsel instructed by BWF solicitors
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 9 March 2023

DECISION AND REASONS

(extempore)

1. This is an appeal against the decision of the First-tier Tribunal dismissing the appellant's appeal against the decision of the Secretary of State by an Entry Clearance Officer on 24 December 2021 refusing an EUSS permit for the appellant to join his wife.
2. The Entry Clearance Officer was not satisfied that the appellant was in fact validly married. The marriage was by proxy. Such a marriage can be perfectly lawful in Ghana in certain circumstances and a valid marriage for the purposes of UK immigration but the Entry Clearance Officer was not satisfied that the appellant was actually present at the purported marriage ceremony.
3. The Entry Clearance Officer's doubt came because of a discrepancy apparent to the Entry Clearance Officer between the signature on the appellant's passport and on the wedding certificate. We have to say that this doubt surprises us. We

have been able to confirm the signatures and without making ourselves experts in any way it certainly did not appear to us that it was in any way at fault however, people are entitled to take different views.

4. The matter came before the First-tier Tribunal when the case was supported by expert evidence. The evidence was from a respected firm of forensic scientists and the forensic scientist had compared samples of the appellant's signature with the signature on the marriage document and was satisfied to a high standard that the signature was that of the appellant's husband. The First-tier Tribunal Judge acknowledged that evidence and wrote about it clearly but came to a different conclusion. The Judge gave nothing that we can identify as a lawful reason. The decision was simply a disagreement which was wholly unexplained. The Judge also took points against the appellant that had not been raised or relied upon by the Secretary of State and whilst that can, sometimes, be permissible it is always undesirable because it is dangerous.
5. Mr Tufan was struggling to defend the decision because it is obviously wrong and we find the First-tier Tribunal erred.
6. We set aside the decision of the First-tier Tribunal.
7. We decided to remake the decision. The appellant's wife was in the hearing room and there was no reason to delay. It is for the appellant to satisfy us on the balance of probabilities that his marriage is a lawful marriage that satisfies the rules.
8. Agnes Afua Darkwa gave evidence in accordance with her statement, adding that she is in daily contact with her husband. Mr Tufan could not make any impact in his short cross-examination.
9. The real point here is whether the marriage was valid and we had no reason whatsoever to go behind the expert opinion that says that the signature on the document is the signature of the appellant and that is sufficient to establish the case. We do, however, note that there is other supporting evidence in the appellant's bundle and we have no good reason to doubt its authenticity.

Notice of Decision

10. It follows therefore that we find the First-tier Tribunal erred in law;

we set aside its decision; and

we substitute a decision allowing the appellant's appeal against the Secretary of State's decision.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

16 March 2023