



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: DA/00644/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 4 January 2019**

**Decision & Reasons
Promulgated
On 15 January 2019**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

MOHAMED AMINE DJEDDOUR

[NO ANONYMITY ORDER]

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Nishan Paramjorthy, Counsel instructed by Sriharans solicitors

For the respondent: Mr Chris Avery, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant has permission to appeal against the decision of the First-tier Tribunal dismissing his appeal against automatic deportation to

Algeria, his country of nationality, pursuant to Regulation 27 of the Immigration (European Economic Area) Regulations 2016.

2. The appellant is married to a French citizen and the Judge applied the 'serious grounds' test in Regulation 27(3), on the basis that the appellant had achieved a permanent right of residence in the United Kingdom. The respondent now accepts that that was the correct test. It is not suggested that the parties' marriage is one of convenience, but they have been estranged for some time, although the appellant hopes that is temporary.
3. The appellant had raised asylum grounds in his appeal to the First-tier Tribunal but did not proceed with any international protection aspect of his appeal at the hearing, expressly withdrawing the asylum element of the appeal.
4. The appellant has four convictions for theft between 2005 and 2014, and on 20 May 2016 he was sentenced to 15 months' imprisonment concurrent on offences of fraud and handling stolen goods. The appellant has been dependent on his wife and others financially while in the United Kingdom, because his status did not permit him to work. He has committed no further offences since then.
5. Permission was granted on the basis that arguably the appellant is not a genuine, present and sufficiently serious threat to one of the fundamental interests of society and/or that the Judge's decision on that question was insufficiently reasoned. It was also suggested that the Judge had given the appellant's Counsel the following indication orally at the hearing:

"Mr Paramjorthy, you will no doubt explain to your client that my decision is reserved, but in light of your submissions, and the very high threshold that needs to be met by the respondent, and the lack of re-offending since 2015 by the appellant, you can provide your client with an indication as to where I am with this appeal."
6. The appellant contended that it was, therefore, unclear to him why the appeal had subsequently been dismissed.
7. In a Rule 24 Reply, the respondent contended, so far as now relevant, that the challenge to the rationality of the First-tier Tribunal decision was not well-founded, having regard to the demanding test to set aside a decision on reasons grounds. He argued that the Judge had given sufficient consideration to the OASys report, which at pages 15, 19 and 20 showed that there remained a risk because of his tendency not to consider fully the consequences of his actions and the risk of his being tempted by financial motives given his current difficult financial circumstances. While the risk of re-offending was low, the serious harm which would be caused if the appellant were to reoffend was such that it was not considered reasonable to leave the public vulnerable to the effects of such re-offending, were it to occur.

8. The respondent further contended that the appellant should be given no credit for his failure to offend since 2015, given that the appellant had been in prison or in immigration detention until 3 January 2017, and had been involved in challenging his deportation since then. The expectation in society was that members of the public should be law-abiding. He contended that the 19% risk of reoffending in year one and 32% in year 2 in the OASys report should be given significant weight.
9. At the hearing, I gave directions for the future conduct of this appeal:
 - (a) The appellant shall serve and file written submissions, setting out all arguments and issues on which he relies, which shall not without the leave of the Upper Tribunal exceed 6 A4 pages, to be received by the Upper Tribunal not later than 12 noon on Friday 16 November 2018.
 - (b) The respondent shall serve and file written submissions, setting out all arguments and issues on which he relies, which shall not without the leave of the Upper Tribunal exceed 6 A4 pages, to be received by the Upper Tribunal not later than noon on 30 November 2018.
 - (c) The Upper Tribunal will then decide whether the appeal can be properly determined on the basis of the papers and submissions received, or whether a further oral hearing is necessary.
 - (d) Liberty to either party to apply.
10. Neither party has filed any written submissions, either within the time set in my decision or at all. I therefore proceed to decide this appeal on the documents and arguments before me.

Analysis

11. The Judge heard oral evidence from the appellant, who did not challenge his offending history. The parties were still married and the 'serious grounds of public policy and public security' test was correctly applied.
12. The appellant has not put forward in a skeleton argument any basis of challenge to the decision. The First-tier Judge's decision is robustly but adequately reasoned, in particular at [33]-[39] of the decision.
13. I find no material error of law in the First-tier Tribunal's decision, which I uphold. This appeal is dismissed.

Signed: [Judith A J C Gleeson](#)
2019

Upper Tribunal Judge Gleeson

Date: 4 January