



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

Appeal Number: EA/01869/2018

THE IMMIGRATION ACTS

**Heard at Newport
On 25 January 2019**

**Decision & Reasons
Promulgated
On 19 February 2019**

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**MR AHMAD ZOBAYER GHAFARI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr C Howells, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of the Netherlands, aged 21. In a decision sent on 4 May 2018 Judge Hosie of the First-tier Tribunal (FtT) dismissed his appeal against the decision made by the respondent on 23 January 2018, refusing to grant him a permanent residence card. The basis of his application for such a card was that he was the direct family member of an EEA national mother exercising Treaty rights in the UK. The respondent refused to grant him EEA status on the basis that he had not furnished proof he was related as claimed.

2. By the time of the appeal the appellant produced the following documentation:

“The Appellant submitted the following information in support of his application: - letter to confirm that he is attending Cardiff High School; exam results for 2015/2016; Student certificate from University of South Wales; Council tax student certificate; letter from Appellant’s mother dated 11 February 2018; and evidence of permanent residence of Dr Tania Ghafari dated 1 October 2015”.
3. The judge considered this documentation and concluded at paragraph 11:

“No additional evidence has been provided by or on behalf of the Appellant despite the additional time afforded to him. He needs to provide proof of residence in relation to himself and his EEA sponsor mother together with proof that he is related to his EEA sponsor mother. Unfortunately, on the evidence before me I am unable to find that the Appellant meets the EEA regulations”.
4. The appellant’s grounds of appeal enclosed, inter alia, DNA test results and P60 forms relating to his mother’s employment in the UK for six consecutive years.
5. The appellant was granted permission to appeal by Judge Grimmett on 31 October 2018 on the footing that “As a person is entitled to a residence card upon production of [the requisite evidence] I grant leave to appeal notwithstanding that the Judge made no error of law in concluding as he did on the evidence before him”. With respect, that was not a proper basis for granting permission, but the case has been listed and I shall proceed to address the grounds as they stand.
6. The grounds cannot be made out. Manifestly at the date of hearing the appellant had not produced evidence to establish either that he was related as claimed or that his mother was in the UK exercising Treaty rights for five consecutive years. Evidence produced post-appeal cannot found a material error of law, save in exceptional circumstances which do not obtain here. Accordingly, my conclusion is that the judge did not materially err in law. As I indicated at the hearing, it would appear that the appellant is now in a position to make a fresh application to the Home Office, producing the requisite evidence to the respondent establishing that he is a direct family member, in which case failure in this appeal will not mean anything more than temporary failure in his bid to establish treaty rights; but that is not a matter for me in the context of this appeal.

No anonymity direction is made.

Signed

Date: 14 February 2019



Dr H H Storey
Judge of the Upper Tribunal