



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

Appeal Number: EA/00225/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 16 November 2020**

**Decision & Reasons Promulgated  
On 30 November 2020**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**IONEL GABRIEL BORNAGEL**  
(anonymity direction not made)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No attendance by or on behalf of the Appellant

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State refusing him admission to the United Kingdom in accordance with Regulation 11 of the Immigration (European Economic Area) Regulations 2016.
2. The short point is that the appellant was intercepted at Calais on his way to the United Kingdom when a dog handling team were attracted to his vehicle by reason of the activities of a dog and a person was found in the back of a vehicle driven by the appellant.

3. The officers conducting the investigation were attentive to the details of the vehicle, particularly how it was secured, and they could not see any way in which a person could have got into the vehicle through the back secretly. The only way into the vehicle that they could establish was through the front of the vehicle and it was hard to see how that could happen without the appellant knowing that it had occurred. Of course, nobody suggests that this is necessarily absolutely conclusive proof of the appellant's knowledge but it was supported by the limited facts and no contrary explanation presented itself.
4. The appellant appealed and that was his opportunity to present a contrary explanation. There was a statement which added little to what I have indicated and nothing that gave flesh to the underlying contention that he was ignorant of the matters that had taken place and the First-tier Tribunal dismissed the appeal.
5. Permission to appeal to the Upper Tribunal was given by an experienced First-tier Judge whose reasons for giving permission can be described fairly as exceedingly tentative. She was concerned that the appellant complained that his case had just not been put, possibly because of solicitors being inept, and feared that there may have been a procedural irregularity amounting to an error of law.
6. The notice of hearing before me was sent out on 12 October 2020. The hearing was on 16 November, so there was an abundance of time for the Notice of Hearing to have arrived. The Notice included Directions requiring the appellant to tell the Tribunal a contact address so that arrangements could be made for a video link to today's hearing. I am told by my usher who has made enquiries that there is nothing to suggest that there was ever any request made in response to those directions. It follows therefore that on the information before me the appellant is on notice and has chosen not to take advantage of the opportunity to give anything that fleshed out his concerns in the appeal. In the circumstances I decided to continue with the hearing in the absence of the appellant.
7. The grounds promise a defence bundle mentioning lots of facts pertinent to the case but there is nothing before me that I have been able to find that was not before the First-tier Tribunal. The decision of the First-tier Tribunal was wholly cogent on the material that was there. The reason for granting permission was that there was a procedural irregularity. There is nothing before me that establishes the procedural irregularity. On the information before me the appeal must be dismissed.
8. It follows that I find no material error of law and I dismiss the appeal.

### **Notice of Decision**

9. This appeal is dismissed.

*Jonathan Perkins*

Signed  
Jonathan Perkins

Judge of the Upper Tribunal

Dated 19 November 2020