



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: HU/17679/2019**

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 18 March 2022**

**Decision & Reasons Promulgated  
On the 19 April 2022**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**ALEJANDRA CARRASQUILLA PATINO  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant: Mr Whitehead (Sponsor)

For the Respondent: Mr Diwnycz, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Colombia who was born on 4 June 1989. She appealed to the First-tier Tribunal against a decision of the Entry Clearance Officer dated 25 October 2019 refusing her application for settlement as the spouse of Mr Jonathan Whitehead, a British citizen. The First-tier Tribunal, in a decision promulgated on 9 February 2021, allowed the appeal. The respondent appealed and, by a decision promulgated on 2 November 2021, the Upper Tribunal found that the First-tier Tribunal had erred in law and set aside the First-tier Tribunal's decision. The appeal comes before me to remake the decision at a resumed hearing following a transfer order.

2. I am grateful to the sponsor, Mr Whitehead, for attending the hearing. He told me that a consequence of the refusal of entry clearance had been that he and his wife (the appellant) had been required to remain in Colombia whilst the appellant had made a further application for entry clearance. That application had been successful; the sponsor's business accounts which had not been available at the time of the first application had by produced to support the second application and entry clearance had duly been granted. The appellant and sponsor have now been living in the United Kingdom for more than two years. The sponsor told me that he and the appellant simply wish to see the present proceedings, protracted in part as a result of the pandemic, to be brought to a close.
3. As Upper Tribunal Judge Grubb had observed when setting aside the First-tier Tribunal decision, it is necessary for the appellant to show unjustifiably harsh consequences sufficient to outweigh the public interest in order to succeed in the appeal on human rights (Article 8 ECHR) grounds. Whilst I acknowledge the inconvenience experienced by the appellant and sponsor as a result of the delay in being able to enter the United Kingdom, that inconvenience did not, in my opinion, cross the high threshold of unjustifiably harsh consequences. I told the sponsor that I would dismiss the appeal accordingly. However, I wish to emphasise that the dismissal of the appeal should not in any way be taken as suggesting that the appellant and sponsor have done anything wrong; in essence, the appellant had been unable at a particular point of time to comply with the Immigration Rules solely because of the vagaries of the accounting period of her husband's business. I understand that the appellant is about to apply to extend her leave to remain and I wish to record that nothing in the facts of this appeal should cast doubt whatsoever on the *bona fides* of her application.

### **Notice of Decision**

I remake the decision and dismiss the appeal on human rights grounds.

Signed

Date 18 March 2022

Upper Tribunal Judge Lane