



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006327
First-tier Tribunal No: EA/11758/2021

THE IMMIGRATION ACTS

Directions Issued:

26th January 2024

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

Secretary of State for the Home Department

Appellant

and

ADIS VALTERI
(NO ANONYMITY ORDER MADE)

Respondent

DECISION AND REASONS

1. Following a grant of permission to appeal to the Upper Tribunal against the decision of the First-tier Tribunal (Judge Bagral) promulgated 28 April 2022, this appeal was stayed awaiting the judgement of the Court of appeal in Celik v Secretary of State for the Home Department [2023] EWCA Civ 921. Judgement was given on 31 July 2023. Mr Celik's appeal against the decision of the Upper Tribunal was dismissed.
2. By the directions of the Upper Tribunal (Judge O'Callaghan) issued on 6 October 2023, expressing the provisional view that the respondent's grounds of appeal in this case asserting an error of law by the First-tier Tribunal were bound to succeed, Mr Valteri was required to reconsider his position in light of the judgement in Celik v Secretary of State for the Home Department [2023] EWCA Civ 921.
3. Inter alia, the Upper Tribunal directed that: "If, having properly considered the judgement in Celik, Mr Valteri cannot resist the appeal and the only possible outcome would be a finding of a material error of law and the outright dismissal of Mr Valteri's original appeal, the parties are invited to agree a consent order that is to be made by the Upper Tribunal pursuant to rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008 disposing of the proceedings. The request to make a consent order must be received by the Upper Tribunal within 21 days of the date these directions are sent."

4. The Upper Tribunal additionally directed that, “In the absence of a substantive response to these directions within 21 days of the date they are sent, or if for any other reason the Tribunal considers it appropriate, the appeal will be listed for disposal on notice to the parties shortly after the expiry of the 21 days.”
5. As there was no response from either party to the Upper Tribunal’s directions and given that no draft order inviting the Upper Tribunal to consent to the withdrawal of the appeal has been received, on 8.1.24 the Upper Tribunal directed this matter to be listed for final disposal on notice to the parties at the earliest convenient date.
6. By email of 23.1.24, the appellant’s legal representatives notified the Upper Tribunal that in light of Celik, the appellant cannot resist the appellant’s appeal and invited the Upper Tribunal to dispose of the appeal in favour of the respondent. They also explained that the appellant has now returned to Albania, from where he proposes to make a fresh application for Entry Clearance.
7. In the circumstances, the proper course is to allow the respondent’s appeal, set aside the decision of the First-tier Tribunal and remake the decision in the appeal by dismissing it.

NOTICE OF DECISION

The respondent’s appeal to the Upper Tribunal is allowed.

The decision of the First-tier Tribunal is set aside in its entirety.

The decision in the appellant’s appeal is remade by dismissing it.

I make no order for costs.

DMW Pickup

Judge of the Upper Tribunal
Immigration and Asylum Chamber

26 January 2024