



Home Office

Reference: H1213767

Home Office

NOTICE OF DECISION

REFUSAL TO GRANT LEAVE TO REMAIN

Paragraph D-LTRP 1.3 with reference to Paragraph R-LTRP1.1(d) and Paragraph 276CE with reference to Paragraph 276ADE (i) - (vi) of HC 395 (as amended)

To: Mohini Hersom India 28 August 1958

Jinnah Solicitors applied on your behalf for leave to remain in the United Kingdom, but your application has been refused.

In refusing your application consideration has been given to your family life under Article 8 which from 09 July 2012 falls under Appendix FM of the Immigration Rules.

Decision under the Partner Route

The requirements of Appendix FM R-LTRP 1.1 (d) are that the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; must meet the requirements of paragraphs E-LTRP.1.2-1.12. and E-LTRP.2.1; and paragraph EX.1. applies.

S-LTR.1.6. The presence of the applicant in the UK is not conducive to the public good because their conduct (including convictions which do not fall within paragraphs S-LTR.1.3. to 1.5.), character, associations, or other reasons, make it undesirable to allow them to remain in the UK.

Your application falls for refusal under S-LTR 1.6 because of your conviction on the 08 July 2013, for which you were served with a community order, a restraining order and a curfew. This conviction remains unspent until 2018. Therefore the Secretary of State has deemed that your presence in the UK is not conducive to the public good because your conduct makes it undesirable to allow you to remain in the UK.

We have carefully considered whether EX.1 applies to your application, however whilst we acknowledge that you have a relationship with a British partner your application falls for refusal under the suitability requirements of the Immigration Rules as set out earlier. These are mandatory requirements which apply to all applicants regardless of whether the EX.1. criteria are met. As you have failed to meet those eligibility requirements, you cannot benefit from the criteria set out at EX.1.

Decision under Private Life

In refusing your application consideration has been given to your private life under Article 8 which from 9 July 2012 falls under paragraph 276ADE of the rules.

The requirements of the rules state that the applicant at the date of application;

- (i) does not fall for refusal under any of the grounds in Section S-LTR 1.2 to S-LTR 2.3. and S-LTR.3.1. in Appendix FM; and

- (ii) has made a valid application for leave to remain on the grounds of private life in the UK; and
- (iii) has lived continuously in the UK for at least 20 years (discounting any period of imprisonment); or
- (iv) is under the age of 18 years and has lived continuously in the UK for at least 7 years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK; or
- (v) is aged 18 years or above and under 25 years and has spent at least half of his life living continuously in the UK (discounting any period of imprisonment); or
- (vi) is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK.

As specified, you fall for refusal under S-LTR.1.6 and therefore fail to meet the requirements of 276ADE (i).

You entered the United Kingdom in 2004 and have not lived continuously in the UK for at least 20 years therefore the Secretary of State is not satisfied that you can meet the requirements of Rule 276ADE (iii).

At the time of your application you were aged 55. You were not under the age of 18 years. Neither were you aged 18 years or above and under 25 years of age. Therefore the Secretary of State is not satisfied that you can meet the requirements of Rule 276ADE (iv) and 276ADE(v).

You have spent at least 23 years of your life, including all of your formative years, in India and not in the UK and, in the absence of any evidence to the contrary, it is not accepted that in the period of time that you have been in the UK you have lost ties to your home country. Therefore the Secretary of State is not satisfied that you can meet the requirements of Rule 276ADE (vi).

Decision on Exceptional Circumstances

It has also been considered whether your application raises or contains any exceptional circumstances which, consistent with the right to respect for private and family life contained in Article 8 of the European Convention on Human Rights, might warrant consideration by the Secretary of State of a grant of leave to remain in the United Kingdom outside the requirements of the Immigration Rules. It has been decided that it does not. You established your family life in the UK with your partner in the knowledge that your immigration status was temporary and you had no legitimate expectation to remain here indefinitely. All parties should have been aware from the outset that this family life may not be able to continue within the UK. Your application for leave to remain in the United Kingdom is therefore refused.

An application was made on your behalf on 19 September 2013. However, your leave to enter expired on 03 November 2006. You therefore did not have leave to remain at the time of your application.

Your application for leave to remain in the United Kingdom has been refused and you no longer have any known basis of stay here. There is no right of appeal against this refusal.

Your case has been transferred to your local enforcement office. You must now contact them (between the hours of 9am and 5pm, Monday to Friday) by telephone on 0208 814 5311 by 08 November 2013 at the latest to discuss your departure from the United Kingdom. We advise you to refrain from making any travel arrangements until you have discussed your case with your local enforcement office who will arrange to obtain your documents.

Should you fail to leave enforcement action will be taken against you. Further consideration can be given to your case at that stage which could result in you being served with an enforcement decision which may generate a right of appeal.

Signed:

on behalf of the Secretary of State
Date: 29 October 2013

Please tell us what you think of this service by completing our anonymous customer satisfaction survey. To access the survey, simply type the web address into your internet browser or scan the QR code with your smart phone.

<https://www.homeofficesurveys.homeoffice.gov.uk/s/visasurveyuk>



[Handwritten signature]
Encs

1 Passport

Supporting Documents



Home Office

Port Ref: ASC/3259982
HO Ref: H1213767

IS.91R

Eaton House
581 Staines Road
Hounslow
Middlesex
TW4 5DL
Tel: 0208 814 5050 Fax: On Request

**NOTICE TO DETAINEE
REASONS FOR DETENTION AND BAIL RIGHTS**

1. To: Mohini Hersom

I am ordering your detention under powers contained in the Immigration Act 1971 or the Nationality, Immigration and Asylum Act 2002.

See note	<input type="checkbox"/> (1)	<input checked="" type="checkbox"/> (2)	<input type="checkbox"/> (3)
	<input type="checkbox"/> (4)	<input type="checkbox"/> (5)	overleaf

2. Detention is only used when there is no reasonable alternative available. It has been decided that you should remain in detention because (tick all boxes that apply):

a	<input type="checkbox"/>	You are likely to abscond if given temporary admission or release.
b	<input type="checkbox"/>	There is insufficient reliable information to decide on whether to grant you temporary admission or release.
c	<input checked="" type="checkbox"/>	Your removal from the United Kingdom is imminent.
d	<input type="checkbox"/>	You need to be detained whilst alternative arrangements are made for your care.
e	<input type="checkbox"/>	Your release is not considered conducive to the public good.
f	<input type="checkbox"/>	I am satisfied that your application may be decided quickly using the asylum fast track procedures.
This decision has been reached on the basis of the following factors (tick <u>all</u> boxes that apply):		
1	<input type="checkbox"/>	You do not have enough close ties (e.g. family or friends) to make it likely that you will stay in one place.
2	<input type="checkbox"/>	You have previously failed to comply with conditions of your stay, temporary admission or release.
3	<input type="checkbox"/>	You have previously absconded or escaped.
4	<input type="checkbox"/>	On initial consideration, it appears that your application may be one which can be decided quickly.
5	<input type="checkbox"/>	You have used or attempted to use deception in a way that leads us to consider you may continue to deceive.
6	<input type="checkbox"/>	You have failed to give satisfactory or reliable answers to an Immigration Officer's enquiries.
7	<input type="checkbox"/>	You have not produced satisfactory evidence of your identity, nationality or lawful basis to be in the UK.
8	<input checked="" type="checkbox"/>	You have previously failed or refused to leave the UK when required to do so.
9	<input type="checkbox"/>	You are a young person without the care of a parent or guardian.
10	<input type="checkbox"/>	Your health gives serious cause for concern on grounds of your own wellbeing and/or public health or safety.
11	<input type="checkbox"/>	You are excluded from the UK at the personal direction of the Secretary of State.
12	<input type="checkbox"/>	You are detained for reasons of national security, the reasons are/will be set out in another letter.
13	<input type="checkbox"/>	Your unacceptable character, conduct or associations.
14	<input type="checkbox"/>	I consider this reasonably necessary in order to take your fingerprints because you have failed to provide them voluntarily.

Your case will be regularly reviewed. You will be informed, in writing, of the outcome of the review.

Date 27 September 2013

Sign *[Signature]*
Print N. Kapoor
PLEASE TURN OVER

Immigration Officer /
On behalf of the Secretary of State*
(*delete as appropriate)

Important notice for detained persons

You may on request have one person known to you or who is likely to take an interest in your welfare informed at public expense as soon as practicable of your whereabouts.

You should inform the Home Office of any change in your circumstances or any other relevant information you have not already provided.

3. Bail Rights

This explains certain rights that you have as a detainee to apply to be released on bail.

- A If you have been detained pending an Immigration Officer's or the Secretary of State's decision on your application for leave to enter, you may, when seven days have elapsed since the date of your arrival in the United Kingdom, apply to an Immigration Judge or to a Chief Immigration Officer to be released on bail.
- B If you have been detained pending the giving of removal directions, or you are awaiting removal in accordance with those directions, and you are not being detained under Schedule 3 to the 1971 Act, you may apply at any time to an Immigration Judge or a Chief Immigration Officer to be released on bail.
- C If you have been served with a notice of intention to deport and have been detained pending the making of a deportation order you may apply at any time to an Immigration Judge or a Chief Immigration Officer to be released on bail.
- D If you have been recommended for deportation by a court you may apply at any time, pending the giving of removal directions, to an Immigration Judge or a Chief Immigration Officer to be released on bail.
- E If you have been served with a deportation order and you are detained pending your removal or voluntary departure, you may apply at any time, pending the giving of removal directions to an Immigration Judge or a Chief Immigration Officer to be released on bail.

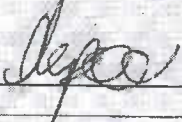
NOTE: If you have been detained for more than 8 days any application to be released on bail should be made to the Secretary of State rather than a Chief Immigration Officer.

4. Assistance If you need legal advice, you can find a legal adviser by contacting:

In England and Wales: Community Legal Advice helpline on 0845 345 4 345

In Scotland: Legal Aid helpline on 0845 122 8686.

5.

<input checked="" type="checkbox"/>	The contents of this notice have been explained to you in English by me.	
<input type="checkbox"/>	The contents of this notice have been explained to you in _____	Language
<input type="checkbox"/>	by _____	Name of interpreter
Date	<u>27/09/2013</u>	Signed <u></u>
		Immigration Officer / On behalf of the secretary of State* (*delete as appropriate)

Notes:

DETENTION POWERS

- (1) For a passenger who has been informed on arrival that he/she is subject to examination/ further examination or has been refused leave to enter the United Kingdom - Paragraph 16 of Schedule 2 to the 1971 Act or section 62 of the 2002 Act.
- (2) For an illegal entrant or a person to whom section 10 of the Immigration and Asylum Act 1999 applies - Paragraph 16 of Schedule 2 to the 1971 Act or section 62 of the 2002 Act.
- (3) A person served with a Notice of Decision to make a deportation order, whose detention has been authorised by the Secretary of State.
- (4) For the subject of a Deportation Order whose detention has been authorised by the Secretary of State - Paragraph 2(3) of Schedule 3 to the 1971 Act.
- (5) For a person recommended for deportation by a court who has not been detained by the court nor released on bail - Paragraph 2(1) of Schedule 3 to the 1971 Act.

Signed:

on behalf of the Secretary of State
Date: 29 October 2013

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Encs

1 Passport

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As specified, you fall for refusal under S-LTR.1.6 and therefore fail to meet the requirements of 276ADE(i).

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At the time of your application you were aged 55. You were not under the age of 18 years. Neither were you aged 18 years or above and under 25 years of age. Therefore the Secretary of State is not satisfied that you can meet the requirements of Rule 276ADE (iv) and 276ADE(v).

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Home Office

Immigration Factual Summary

PLEASE NOTE THAT PARAGRAPH 18 OF THE PRACTICE DIRECTION SUPPLEMENTING PART 54 OF THE CIVIL PROCEDURE RULES APPLIES TO YOUR CASE. THIS MEANS THAT IF YOU APPLY FOR JUDICIAL REVIEW BEFORE YOUR REMOVAL TAKES EFFECT YOU MUST:

- ENSURE YOUR APPLICATION CONTAINS OR IS ACCOMPANIED BY A DETAILED STATEMENT OF GROUNDS OR A STATEMENT OF REASONS WHY YOU ARE UNABLE TO COMPLY WITH THIS REQUIREMENT; AND
- IMMEDIATELY UPON ISSUE OF THE CLAIM, SEND COPIES OF THE ISSUED CLAIM FORM AND ACCOMPANYING DOCUMENTS TO THE UK BORDER AGENCY.

FAILURE TO COMPLY WITH THE PRACTICE DIRECTION MAY MEAN THAT YOUR REMOVAL IS NOT DEFERRED PENDING THE OUTCOME OF YOUR JUDICIAL REVIEW APPLICATION.

YOU MAY WISH TO SEEK LEGAL ADVICE. IF YOU ARE DETAINED YOU WILL HAVE ACCESS TO A TELEPHONE TO ENABLE YOU TO CONTACT YOUR LEGAL ADVISOR OR REPRESENTATIVE.

PAPERS RELATING TO ANY JUDICIAL REVIEW PROCEEDINGS OR INJUNCTIONS SHOULD BE FAXED TO THE NUMBER BELOW DURING Mon-Fri 9am, to 5pm. PLEASE CONTACT THE COMMAND AND CONTROL UNIT ON 0161 261 1640 FOR ASSISTANCE OUTSIDE THOSE HOURS

Home Office Ref:	H1213767	Port/LEO Ref:	ASC/3259982	
Surname/First/Middle	Hersom Mohini	DOB	28 August 1958	
Nationality	India	Gender	Female	No. of Dependants 0
Address/ Detention Location	26 Bourne Court Station Approach South Ruislip Ruislip Middlesex HA4 6SW	Legal Rep Name and Case Ref	Robin F Clark And Co Solicitors	
		Legal Rep Address	198 Parrock Street Gravesend Kent DA12 1EW	
		Legal Rep Fax	01474334362	
Removal Destination	India	Removal Directions Served		
Removal Date		Served on Representative		
Highest Court appealed to	First Tier Tribunal or AIT	Date Appeal Rights exhausted	23 November 2010	
Other Litigation				

Immigration History

03/11/2004 - spousal visa issued (valid to 3/11/2006) on basis of marriage to Nicholas Martin Hersom
 01/11/2006 - ILR (domestic violence) application
 08/02/2007 - ILR application refused (with ROA)
 04/02/2008 - IS.151A (overstayer) served
 14/02/2008 - ILR (domestic violence) application
 25/03/2008 - ILR application rejected (no application form or fee enclosed)
 10/04/2008 - LOTR application (compassionate grounds)
 03/11/2009 - LOTR refused (with ROA)
 20/05/2010 - Claimed asylum
 05/08/2010 - asylum refused
 08/11/2010 - appeal dismissed
 23/11/2010 - ARE
 09/12/2010 - detained & RD's set for 14/12/10
 14/12/2010 - released due to mental health concerns
 18/11/2011 - Further submissions lodged (subject claimed to be in relationship with Brit Cit Alex McDowell)
 19/04/2013 - further subs rejected (para. 353, no ROA)
 09/05/2012 - LOTR application (compassionate grounds)
 30/07/2013 - LOTR refused (no ROA)

Officer's name	Daniella Emery	LIT Name and Address	ACD, Floor 2 Becket House, 60-68 St Thomas Street, London SE1 3QU
Tel No	Central London Asylum Team		
Fax No.	0207 238 1300		
Date Factual Summary Served	0207 238 0174		