



Press release

Joint Council for the Welfare of Immigrants

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Pictures on request

HIGH COURT HEARTBREAK FOR MARRIAGE VISA COUPLE

British newlywed Amber Aguilar was ‘heartbroken’ today after hearing her High Court bid to return to the UK with her Chile-born husband Diego had failed.

Diego, 19, had taken his case to the High Court to overturn a new Home Office rule that British citizens cannot bring a spouse into the country until both are over the age of 21.

The trainee electrician claimed the rule breached his human rights to a family life and discriminated against him on the grounds of age.

The couple have said they will take the case to the Court of Appeal with the continued support of the UK charity, Joint Council for the Welfare of Immigrants.

The judge in the case, Mr Justice Burnett, announced today (Monday, December 7) his ruling that the Home Office was right to ban marriage visas for under 21-year-olds in an attempt to prevent forced marriages.

Joint Council for the Welfare of Immigrants chief executive, Habib Rahman, said: “We will continue to support Amber and Diego in their fight to live in the UK as a family.”

Amber, 18, married Diego in November 2008 when she was aged 17 following a two-and-a-half year relationship.

But just five days after her wedding the government changed the law so both partners who tie the knot have to be 21 before a marriage visa will be issued to a foreign national.

Diego went to the High Court to apply for judicial review of the Home Office decision, claiming the rule infringed his human rights and was “disproportionate” under UK law.

The age limit for visas for newly married couples was raised from 18 to 21 on November 27, 2008, by the Home Office - which claimed the move would protect younger men and women from forced marriages.

However, a report by Professor Marianne Hester commissioned by the Home Office but never published showed the new legislation would not help the victims of forced marriages - and would actually do more harm than good.

Amber will have to decide whether to remain in Chile with her husband or to return to the UK to attend a university offering the appropriate course for her teaching career.

Amber said: “This is a huge disappointment and I am heartbroken. I cannot live without Diego but I desperately want to start my education so I can teach languages in the UK.”

Amber’s mother, Helen Jeffery, 57, from Friern Barnet in North London, who is Headteacher at the George Mitchell All-Through School in Leyton, East London, was very disappointed.

She said: “We are absolutely devastated. The Home Office claims it was trying to prevent women being forced into marriage to allow them a chance to get an education.

“The cruel irony is that the actual effect of the rule is to force my daughter to live thousands of miles from her family and prevent her going to university in the UK despite the fact nobody would ever suggest her marriage was anything but genuine.”

Amber’s father, Rupert, 47, a Deputy Headteacher at Wembley High Technology College, said: “Our daughter is a British citizen and we believe she has a right to live with us in Britain with the man she has chosen to marry.

“The government appears to be using the emotive issue of forced marriages as an excuse to introduce draconian immigration laws.”

Notes for editors:

1. The case was heard at the High Court. For administrative reasons, the judgment was handed down at Bristol Crown Court.
2. More information about the Rochelle Wallis story can be found on the Daily Mail website here: <http://www.dailymail.co.uk/news/article-1212290/New-marriage-law-forces-couple-apart.html>
3. The claimant in the case is Diego Andres Aguilar Quila. His date of birth is July 12, 1990. Amber’s birth date is April 25, 1991. She turned 18 on April 25, 2009. The couple were married on November 22, 2008.
4. The Home Secretary declined the application for a marriage visa on March 4, 2009 and refused to reconsider the decision on May 15, 2009. It is these decisions which go to the court for Judicial Review.
5. Diego claimed the refusal to grant the visa breaches articles 8 (the right to family life) and 14 (the right not to be discriminated against, in this case on grounds of age) of the European Convention for the Protection of Human Rights
6. Diego’s visa application was refused under Rule 277 of the Immigration Rules which was amended by the Secretary of State with effect from 27 November 2008.
7. The rule change was announced by the UK Borders Agency on July 23, 2008 in a press release in which the then Home Secretary Jacqui Smith stated: “Forced marriage leads to victims suffering years of physical and mental abuse and – in extreme cases – unlawful imprisonment and rape. It has no place in our society....That is why we are raising the age limit for visas, checking anyone entering into marriage does so of their own free will, and demanding that those coming to the UK learn English.”
8. Professor Marianne Hester submitted their Draft Final Report titled Forced Marriage: The risk factors and the effect of raising the minimum age for a sponsor, and of leave to enter the UK as a spouse or fiancé(e)” to the Home Office on February 15, 2007. The primary recommendation of the report was “the age of sponsorship/entry should not be raised to 21 or 24.”

