



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

Appeal Number: AA/09232/2013
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THE IMMIGRATION ACTS

**Heard at Glasgow
on 28 October 2014**

**Determination issued
On 30 October 2014**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**TABINDA FATIMA FAROUQ
& AYZAD JAVED RAJA
(No Anonymity Order Made)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr C McGinley, of Gray & Co, Solicitors
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants appeal against a determination by First-tier Tribunal Judge Reid, dismissing their appeals against refusal of asylum.
2. The hearing was on 6 January 2014, but the determination was not promulgated until 1 July 2014. The first point taken in the grounds of appeal to the Upper Tribunal is that as credibility was in issue, the delay rendered the determination unsafe.
3. The grounds secondly assert inconsistency and lack of reasoning in the adverse credibility conclusions. Mr McGinley referred to favourable findings at paragraphs 93 - 95. He said this was followed by an unexplained finding of "important inconsistencies". He pointed in

particular to paragraph 101, which finds that the first appellant gave an account of her son's kidnap and rescue "in parts lacking in credibility" but then that the second appellant gave credible evidence of his abduction. Mr McGinley said that as both witnesses were speaking to the same incident, although from different viewpoints, either it took place or it did not. The determination was self-contradictory, or at best unclear.

4. The third significant aspect of the grounds is a criticism of the finding that the risk did not extend throughout Pakistan, and the appellants could relocate.
5. Mrs O'Brien said that there had been unfortunate and lengthy delay in promulgation, but that was not by itself fatal to the determination (which is correct – see *Symes and Jorro*, *Asylum Law and Practice*, 2nd ed., 2010, 17.54). However, she accepted that the credibility conclusions are inadequate. She said that the case might have been resolved by a clear finding on internal relocation, the first appellant being well qualified and able to maintain herself in Pakistan (a point which I understood from Mr McGinley not to be disputed) but that unfortunately the question whether there was a real risk of the appellant's husband tracking her down and targeting her was inadequately resolved. There would have to be a rehearing.
6. The determination of the First-tier Tribunal is **set aside**. None of its findings are to stand. Under s.12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to **remit the case to the First-tier Tribunal**. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge Reid.
7. At the rehearing, the following points may be useful. (i) There appears to be common ground that absent any risk relocation would be viable (and compare *KA and others* (domestic violence – risk on return) Pakistan CG [2010] UKUT 216 (IAC), headnote *vi - vii* and paragraphs 270- 271). Whether or not the evidence is found generally credible, there should be a reasoned answer to the question whether risk might now persist nationwide. (ii) The second appellant being a citizen of Canada, there is no apparent basis on which he might be entitled to refugee protection in the UK. There might be a case to be argued for him on human rights, but only if the first appellant is entitled to protection here.
8. No anonymity direction has been requested or made.

29 October 2014
Upper Tribunal Judge Macleman

