



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

Appeal Numbers: AA/00447/2015

THE IMMIGRATION ACTS

**Heard at Eagle Building, Glasgow
On 03 September 2015**

**Decision & Reasons Promulgated
On 07 September 2015**

Before

**The President, The Hon. Mr Justice McCloskey
and Upper Tribunal Judge Macleman**

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

SAMSON CHARLES

Respondent

Representation:

Appellant: Mr Mullen, Senior Home Office Presenting Officer

Respondent: Ms R Kieran, of Gray and Co., Solicitors

DECISION AND REASONS

1. At the conclusion of the hearing of this appeal we pronounced our reasoned decision, dismissing the Secretary of State's Appeal. We reproduce, in summary terms, our oral decision in the following paragraphs.
2. This appeal originates in the Secretary of State's decision dated 19 December 2014 whereby the asylum claim of Samson Charles, a national of Pakistan now aged 63 years and the Respondent to this appeal, was refused. The ensuing appeal to the First-tier Tribunal (the "FtT")

succeeded. The Secretary of State then sought and secured permission to appeal to this Tribunal. We were initially inclined to construe the grant of permission as confined to the Secretary of State's complaints about the fairness of the FtT's decision making process. On this issue, Mr Mullan, on behalf of the Secretary of State, acknowledged that the appeal could not succeed. However, he contended that permission to appeal had also been granted on the ground of irrationality. While we had significant reservations about whether the grant of permission can legitimately be construed in this way, we ruled, generously, that argument could be presented on this ground.

3. Mr Mullan's submissions focused mainly on [62] of the determination of the FtT. This is an important passage in the determination. Within this passage there is a single objectively demonstrable error on the part of the Judge, relating to the reference number of a so-called "FIR" ("First Information Report"). This is a species of police record in Pakistan which documents an initial complaint of alleged criminal conduct, normally made by the victim. The Appellant relied on this report in making his claim for asylum and, subsequently, before the FtT. The Secretary of State made the case, based on a "Document Verification Report" ("DVR"), that this was a fabricated document. Ultimately, in an important finding, the FtT decided that the document is authentic. In making this finding, the Judge stated that the FIR does not bear the reference number contained in the DVR. This is incorrect. The question is whether this error justifies the condemnation of the Judge's finding that the FIR is authentic as irrational.
4. In evaluating the magnitude and implications of the Judge's error, we take into account that there are demonstrable errors in the DVR. In particular, the person identified therein is the Appellant's spouse, rather than him, and, likewise, the passport number recorded is that of the Appellant's spouse. We also weigh what we consider to be the manifestly unsatisfactory content of the DVR, in particular the key passage wherein is recorded information provided to the document examiner (described as an "Immigration Liaison Advisor") by the relevant police station. It is terse and opaque. We note further the intrinsic limitations of the enquiry exercise conducted, arising out of the method of communication employed (telephone) and the non-provision of the document itself to the police station concerned. We must also take into account the unchallenged findings in the determination which were positive to the Appellant, namely that his evidence was found to be credible, as were other documents. Finally, there is no dispute about the correctness about the other shortcomings pertaining to FIR's generally identified by the Judge. We further add to the equation that the onus was on the Secretary of State to establish that the FIR is a fabricated document and that the standard of proof is that of a high degree of probability.
5. Irrationality is a notoriously high threshold. Balancing all of the facts and considerations rehearsed above and juxtaposing these with the judge's error of fact, we are not satisfied that the determination of the FtT can be condemned in this way. Though the Judge's assessment was not

impeccable, the finding which he ultimately made, namely that the FIR is an authentic document, plainly lay within the range of findings reasonably open to him. While one of its building blocks is fallacious, it nonetheless has a sufficiently solid substratum to withstand an irrationality challenge.

DECISION

6. Accordingly we dismiss the appeal and affirm the decision of the FtT.

Seamus McCloskey

**THE HON. MR JUSTICE MCCLOSKEY
PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER**

Date: 03 September 2015