



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/02568/2015**

THE IMMIGRATION ACTS

**Heard at Field House, London
On 8 October 2015**

**Decision & Reasons Promulgated
On 19 November 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

**ZTH
(ANONYMITY ORDER CONTINUED)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Naveed, RW Anderson Solicitors

For the Respondent: Ms N Willocks-Briscoe, Home Office Presenting Officer

DECISION AND REASONS

The First-tier Tribunal made an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

1. The appellant, a national of Pakistan, appealed to the First-tier Tribunal against a decision made by the respondent on 28 March 2014 to refuse her application for asylum and to remove her from the UK. Judge of the First-tier Tribunal C M Phillips dismissed the appeal.
2. The appellant was granted a visit visa and entered the UK on 29 November 2008. She applied for asylum in 27 February 2009. The basis for her claim is that she was the victim of domestic violence in Pakistan and that her husband reported her to the police informing them that she committed adultery, theft and kidnapping. The respondent accepted the appellant's identity and nationality. However the respondent did not accept that the appellant's claim is credible due to inconsistencies in her account. The respondent also took account of the fact that the appellant's husband had previously applied on four occasions for visit visas for him and the appellant to visit a friend in the UK. Two of the applications were refused and two were granted. It was not accepted that the appellant was wanted by the authorities in Pakistan as she did not adduce evidence that she had been summoned to a court in Lahore as claimed and she was able to leave Pakistan using her own passport.
3. The appellant and two witnesses gave oral evidence in the First-tier Tribunal. The First-tier Tribunal Judge took into account the fact that the appellant had not produced any evidence of the outstanding proceedings against her in Pakistan or of the property dispute. The Judge took into account the fact that the appellant had not explained her countervailing immigration history, in particular the fact that the appellant and her husband had applied for visit visa together. The Judge considered that the appellant's account was inconsistent, for example in relation to her name and that of her father. The Judge noted that there was no medical evidence to support the appellant's claim that she had mental health problems which affected her asylum interview and no up-to-date medical evidence dealing with her mental health. The Judge found that the appellant had not made out her core claim. The Judge further found that internal relocation is available to the appellant in Pakistan. Her appeal under Article 8 of the European Convention on Human Rights was dismissed.
4. At the outset of the hearing before me Mr Naveed applied for an adjournment of the hearing as the appellant was expecting to receive documents from Pakistan that day or the following day. I refused to grant that application as new evidence was not relevant to the first issue I had to determine, which is whether the First-tier Tribunal Judge made a material error of law in her decision.

Error of law

5. The first ground of appeal to the Upper Tribunal contends that the Judge erred in her findings of fact. It is contended that the Judge failed to

consider the appellant's claim that her husband registered a criminal case against her accusing her of adultery, kidnapping and theft. Mr Naveed submitted that the Judge considered the whole case on the basis of the property dispute and that she failed to consider the main part of the claim that the appellant is subject of criminal proceedings. Ms Willocks-Briscoe submitted that all the elements of the appellant's claim were identified and that the Judge did consider the claim that criminal proceedings were outstanding.

6. It is clear that the Judge did consider this matter properly. The Judge correctly set out the basis of the appellant's claim at paragraph 3 where she referred to the claim that the appellant's husband had reported her to the police in relation to adultery, kidnapping and theft. The Judge considered this claim at paragraph 80 where she referred to the involvement of the police, paragraph 81 where she said that there was no evidence to support the appellant's claims that include a claim that there are proceedings outstanding against her in Pakistan and that there is a property dispute. The Judge referred to both issues again at paragraph 82 and at paragraph 93. I am therefore satisfied that the Judge made no factual error as to the nature of the appellant's claim and that the Judge fully considered this part of the appellant's claim.
7. It is contended that the Judge erred in fact in that she failed to consider that the appellant left her husband on 17 November 2008 and went to Okara with her children and then left Pakistan on 29 November 2008 and that she did not intend to leave her husband when she was issued with the visit visa in September 2008. Mr Naveed submitted that the Judge failed to consider that the problems between the appellant and her husband came after the visa was granted, between September and November 2008. However Ms Willocks-Briscoe referred to the summary of the appellant's evidence at paragraph 7(h) of the Reasons for Refusal letter which refers to the witness statement and the asylum interview where the appellant said that she left her husband in August 2008. In her asylum interview the appellant said that she left her husband on 18 August 2008 [Q100]. It was therefore open to the Judge to take account of the fact that the appellant's application for a visit visa, made on 1 September 2008, with the assistance of her husband [82], was made after she claims to have left her husband.
8. It is contended in the grounds of appeal that the Judge failed to consider the appellant's physical and mental health problems. It is contended that the Judge erred in failing to consider the appellant's medical problems, in particular her mental health problems, and the effect of these problems upon her memory. Mr Naveed submitted that the appellant's mental health problems have developed gradually and she has lost her memory. Mr Naveed submitted that the Judge ignored the medical report dated 12 November 2014 from Dr Razia Hussein. However the Judge did refer to that evidence at paragraph 47 of the determination. The Judge referred to the report and its predecessor again at paragraphs 55 and 56. Further, there was nothing in that evidence to support the appellant's claim that

she had an issue with her memory such as to affect her ability to give her account in her asylum interview. I am satisfied that the Judge considered all of the medical evidence and reached conclusions open to her on that evidence at paragraphs 88-91 of the determination.

9. It is contended that the Judge erred in her finding in relation to the appellant's father's name and in relation to the appellant's own name. Mr Naveed submitted that the appellant's passport correctly states the appellant's husband's name and not that of her father. He submitted that there was no discrepancy in the evidence in relation to the appellant's own name. Ms Willocks-Briscoe pointed to the appellant's passport at B5 of the respondent's bundle which states the appellant's father's name as being that of her husband. However the copy passport in the respondent's bundle is of poor quality and it is not clear whether the appellant's father's name or husband's name is given. In any event there is a discrepancy in the previous visa applications in that the application made on 1 September 2008 giving the appellant's father's name as that of her husband. The further discrepancy noted by the Judge in relation to the appellant's son's visa application where the name he gave for his mother is not consistent with her name was open to her on the evidence. Given that there are inconsistencies in relation to this evidence the Judge did not make any material error in finding that the appellant's account of her name and that of her father has been inconsistent [84].
10. The grounds of appeal contend that the Judge erred in failing to apply the rationale of the decisions in AW (Sufficiency of Protection) Pakistan [2011] UKUT 31 (IAC), KA and Others (domestic violence - risk on return) Pakistan CG [2010] UKUT 216 (IAC), and SN and HM (Divorced women - risk on return) Pakistan CG [2004] UKIAT 00283. However Mr Naveed did not explain how the Judge could have considered the decisions in these cases given her findings as to the appellant's credibility. In any event the Judge identified the relevant case law and considered it in the context of her credibility findings [95].
11. The grounds of appeal further contend that the Judge erred in assessing the reasonableness of internal relocation in that she failed to take account of the FIR registered against the appellant and that a case of adultery has been taken against her. The Judge went on to consider the issue of internal relocation in the alternative taking the appellant's claim at its highest and considered all relevant issues [97].
12. The grounds of appeal contend that the Judge failed to consider that the appellant has established a private and family life in the UK. Mr Naveed submitted that the Judge failed to properly consider the relationship between the appellant and the witness with whom she has been living. The grounds contend that the Judge failed to take account of the delay in the asylum process. Mr Naveed submitted that the delay of more than 5 years by the Home Office should have been considered.

13. However the Judge refers to the fact that the appellant has been living with her friend [100]. The Judge was entitled on the evidence to conclude that the appellant has not established a family life in the UK. She considered the appellant's private life within and outside of the Immigration Rules. She considered the delay in the consideration of the appellant's claim for asylum and the medical evidence [103]. I am satisfied that the Judge did properly direct herself to all of the relevant factors in carrying out the proportionality exercise and reached a conclusion open to her on the basis of the evidence.
14. It is contended in the grounds of appeal that the Judge breached her duty to act fairly. However this is a bare assertion and Mr Naveed did not expand upon it in his oral submissions. I find that this ground has not been made out.
15. The Judge was therefore entitled to conclude as she did and dismiss the appellant's appeal for the reasons provided.

Conclusion:

The decision of the First-tier Tribunal did not involve the making of an error on a point of law.

Signed

Date: 17 November 2015

A Grimes
Deputy Judge of the Upper Tribunal