



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/08248/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
On 14 August 2018

Decision & Reasons Promulgated  
On 23 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE FROOM

Between

**HABIB [Z]**  
(NO ANONYMITY DIRECTION MADE)

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Muquit, Counsel

For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals with the permission of the First-tier Tribunal against a decision of Judge of the First-tier Tribunal Chohan dismissing his appeal against a decision of the respondent, dated 3 March 2016, refusing his application for leave to remain on the grounds of private and family life. The appellant came to the UK in 2005 as a visitor. He left the UK and was refused another visit visa. However, he managed to re-enter the UK illegally. He says this was in 2005 but there are no records of him until he submitted a human rights application in August 2011. At that time he claimed to be in a relationship with [KN]. This and two further

applications were refused or rejected. His most recent application was made in December 2015.

2. Judge Chohan found the appellant did not enjoy family life in the UK. The appellant resides in the household of a Mr Gill but, the judge reasoned, they are not blood relatives and they are both adults. The appellant was 29. In terms of the appellant's private life, the judge accepted the appellant will have established a private life, whether he has been in the UK since 2005 or 2011. He assessed whether the appellant faced very significant obstacles to reintegration. However, he found the claims made regarding the appellant's mental health and vulnerability had been exaggerated. There were no compelling circumstances and removal of the appellant would be proportionate.
3. Permission to appeal was refused by the First-tier Tribunal but granted by the Upper Tribunal. It was arguable the judge had failed to make clear findings on the appellant's dependency on Mr Gill and had arguably made inconsistent findings on Mr Gill's evidence.
4. No rule 24 response has been filed by the respondent.
5. I heard submissions from the representatives as to whether the First-tier Tribunal Judge had made an error of law in his decision.
6. Mr Muquit confirmed that he was not arguing the appellant enjoyed family life with Mr Gill and his family. I took him therefore to have abandoned this ground. The appeal centred on the appellant's private life of which his relationship with Mr Gill formed an important element. The key issue for decision was whether there were very significant obstacles to the appellant reintegrating in Pakistan.
7. Mr Muquit pointed out the judge had said at paragraph 9 of the decision that he had no reason to doubt Mr Gill's evidence and his evidence had been that he had known the appellant in the UK since 2006. He then turned to the judge's assessment of the psychological evidence. He pointed out the expertise of Dr Halari, who had provided two reports. The judge had confused the roles of a psychologist and a psychiatrist. The judge had wrongly stated there was no evidence that treatment or therapy were not available in Pakistan. He had set out passages from the respondent's COIS report in his skeleton argument. He had not justified his finding that the appellant has family members in Pakistan who would help him because the appellant's evidence was that he had been abandoned in the UK by his mother.
8. Ms Isherwood argued the decision of the judge does not contain any material error. Dr Halari's reports were almost entirely based on what Mr Gill had told her about the appellant. She had simply accepted what Mr Gill said about the appellant's vulnerability. In sum, the judge had been entitled to give the reports less weight and to find the appellant's difficulties had been exaggerated.

9. Mr Muquit pointed out that Mr Gill was simply informing Dr Halari about his experience of living with the appellant day to day. He suggested the judge had erred by adopting the mantle of an expert in finding the appellant should have been prescribed medication.
10. I reserved my decision as to whether the decision of the First-tier Tribunal is vitiated by material error of law such that it must be set aside and re-made. Having carefully read the decision and considered the arguments put forward by the representatives I have concluded that the decision should stand. My reasons are as follows.
11. The judge's decision follows a logical approach. His assessment of the appellant's private life claim begins at paragraph 9 in which he accepted that the appellant has lived in the UK for a lengthy period of time such that he will have established a valuable private life engaging article 8. He noted the submission of Mr Muquit, who also appeared in the First-tier Tribunal, that the appellant was a vulnerable individual and he set out, in paragraph 11, the key findings of Dr Halari that the appellant's level of cognitive functioning is within the extremely low range such that he would struggle to live independently. He was highly dependent on Mr Gill with whom he has a very positive and stable relationship.
12. I have read Dr Halari's reports. She is eminently well-qualified as a chartered consultant clinical psychologist, who currently holds a post in the NHS. In paragraph 4 of her first report, she states that the appellant's history was presented as stated by him during the interview, although she makes it clear that most of the information was in fact volunteered by Mr Gill, based on what the appellant had said to him. She then indicates that her conclusions would be based in part on the results of psychometric testing. However, I can see no further mention of testing or the results. It seems therefore that Dr Halari's conclusions in her first report were based entirely on her perception of the appellant at their meeting at which most of the reporting was done by Mr Gill. Her assessment was that the appellant found it very difficult to communicate his thoughts and feelings alone. He appeared cognitively and emotionally immature. He was struggling socially, emotionally and intellectually. She also opined, based on what Mr Gill had reported, that the appellant was suffering from symptoms of anxiety and depression. Apparently, the appellant had asked for medication for his depression and anxiety but Mr Gill was opposed to this. Dr Halari offers no opinion about that. Dr Halari states that the appellant would strongly benefit from psychological therapy.
13. I do not consider the judge erred in the manner described by Mr Muquit. I find he was entitled to give Dr Halari's conclusions less weight than might otherwise have been the case for the reasons he gave. I shall now examine those reasons.
14. Firstly, the judge had concerns about Dr Halari's reports. Whilst it is true he appears to use the terms 'psychologist' and 'psychiatrist' interchangeably in his decision, he was entitled to find it strange that Dr Halari did not question Mr Gill's

objection to the appellant receiving treatment for depression and anxiety, which she appears to have believed he would benefit from. Furthermore, despite recommending therapeutic treatment in her first report, prepared in December 2015, it was clear that no steps had been taken to follow her recommendation when Dr Halari met the appellant to prepare her second report in August 2017. She makes no reference to this in her second report, although she does refer to the appellant's mood and level of anxiety having improved over the past two years.

15. The judge was also concerned that, as discussed, much of the information on which Dr Halari relied had been communicated by Mr Gill. Mr Muquit pointed out that the judge had said he had no reason to doubt Mr Gill's evidence (to the tribunal) but I do not consider that the judge was therefore unable to consider Dr Halari's conclusions would have deserved greater weight if she had based them on her own assessment of the appellant rather than simply accepting everything Mr Gill reported.
16. Secondly, the judge noted the letters of support from friends of the appellant contained in the appellant's bundle made no mention of his vulnerability. Mr [TA], a student at the University of Manchester, has known the appellant since 2007 and describes him as a lovely friend with whom he enjoys meals, watching TV and occasional chats. He is a "hard working person". Mr [SA] describes getting along very well with him and having "funny conversations with him". Mr and Mrs [A] wrote a joint letter describing the appellant as "a smart and intellectual person". The appellant has been visiting them for many years. Mr [MC] says he has known the appellant for four years in various capacities. The appellant is "hard working and dedicated". Mr [IH] says the appellant is a close friend and a "hard working individual". Ms [YA], a teaching assistant at a primary school, has known the appellant for ten years and he comes to her house every month.
17. This is just a selection from the wide sample provided. The judge was perfectly entitled to regard the absence of any reference at all in those letters from so many people who claim to know the appellant well to any vulnerability on his part was highly inconsistent with the evidence of Mr Gill, as imparted to Dr Halari and then the tribunal. The letters are so numerous that a clear picture is painted by them of the appellant successfully engaging in social activities with a wide circle of friends and also working. That is very difficult to reconcile with the childlike person, wholly dependent on Mr Gill described by Dr Halari.
18. Thirdly, the judge was entitled to note that, in 2011, the appellant had made an application to the respondent for leave to remain on human rights grounds, relying on his relationship with [KN]. The application was made at a time the appellant was already living with Mr Gill and no effort has been made by Mr Gill to explain how the appellant was capable of forming a serious adult relationship. The judge was entitled to draw an inference from the fact the appellant had made such an application that his degree of vulnerability may have been exaggerated for the purposes of the appeal.

19. As for Mr Muquit's point about the judge wrongly stating that "no objective evidence has been submitted that the appellant could not receive medication or therapy in Pakistan" (see paragraph 18), I accept there are some passages from the 2013 COIS in the skeleton argument which the judge did not refer to. However, the full COIS report was not filed in the bundle and all that the passages extracted by Mr Muquit state is that mental health patients in Pakistan depend on their families to bring them for treatment owing to the absence of laws protecting mentally disordered patients. This suggests treatment is available if the families are prepared to arrange it. In any event, as the judge had noted, no effort had been made by Mr Gill to arrange for therapeutic treatment in the UK and the appellant no longer appeared to require medication. There was no material error by the judge in failing to have regard to the COIS when concluding there were not very significant obstacles to the appellant's reintegration.
20. Finally, the judge refers to the appellant having family members in Pakistan, which Mr Muquit pointed out was contrary to the evidence given that the appellant was abandoned in the UK and has lost touch with his family in Pakistan. Of course, acceptance of Mr Gill's evidence does not mean the judge accepted the truth of what Mr Gill had been told. It is clear from the decision overall that the judge had serious reservations about the credibility of the case being out to him and this would logically include the claim about losing touch with family. I find there is no inconsistency in the judge's approach to the evidence. The appellant's appeal is dismissed.

### **NOTICE OF DECISION**

The Judge of the First-tier Tribunal did not make a material error of law and his decision dismissing the appeal shall stand.

No anonymity direction is made.

Signed

Date 15 August 2018

**Deputy Upper Tribunal Judge Froom**