



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/03176/2017

**THE IMMIGRATION ACTS**

Heard at Birmingham Employment  
Tribunal  
On 22 August 2018

Decision promulgated  
On 10 September 2018

Before

UPPER TRIBUNAL JUDGE HANSON

Between

MAK  
(anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: In person  
For the Respondent: Mrs Aboni Senior Home Office Presenting Officer.

**ERROR OF LAW FINDING AND REASONS**

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Griffith promulgated on 15 November 2017 in which the Judge dismissed the appellant's appeal on protection and human rights grounds.

## Background

2. The appellant is a citizen of Pakistan born on 2 May 1985. He is married with one child, born in the United Kingdom, and his wife, according to the Judge, was expecting a second child. The appellant's wife and child are dependents and their status stand or falls with that of the main appellant.
3. The appellant initially entered the United Kingdom lawfully on 4 June 2011 as a student. He has travelled backwards and forwards to Pakistan during the course of his student visa. The student Visa was curtailed on 1 October 2013 by the course provider as a result of persistent non-attendance on the course, although the appellant claimed before the Judge that the reason for the curtailment was because his college has lost its licence. The appellant eventually claimed asylum on 24 February 2014 the day his wife also entered the UK with a visit Visa.
4. The Judge considered the evidence with the required degree of anxious scrutiny including the expert evidence provided by the appellant. The Judge sets out his findings from [54] of the decision under challenge noting in that paragraph that the basis of the appellant's claim is that his difficulties stem from his having married an older woman from a different Muslim sect to which he converted, in relation to which the appellant has been consistent. Although no credibility issues were raised in the reasons for refusal letter the Judge finds credibility issues do arise from certain aspects of the appellant's evidence including the reliability and authenticity of the documentary evidence and, for the reasons set out at [56] of the decision, the Judge did not find the appellant to be a credible witness.
5. The expert report of Dr Bluth, who found that the documents produced by the appellant are genuine, was considered by the Judge. The Judge was, however, concerned about a number of specific aspects of the evidence that would not have been known to the expert. At [58 and 59] of the decision under challenge it is written:
  - “58. He claimed that in October 2013 his home was attacked by five armed men, which included his brother and brother in law. They pushed him to the floor, but he managed to get up and run away. It was a small house with one bedroom and one living room. When he was running away they fired at him but [Mr K] managed to find safety behind a locked door, where he remained with his wife until his attackers went away. I do not find his account credible.
  59. The delay in taking action to remove themselves from danger is not consistent with the actions of a couple who were in fear of their lives from their families and from an influential distant relative. I do not consider the appellant gave a satisfactory explanation for returning to Pakistan in March 2013 and remaining there for almost a year. Even if their visas for the UAE were expiring, he could have sought asylum in another country. At that stage his student leave had not been curtailed and he could, therefore, have lawfully entered the UK and, with his

wife, claimed asylum at that stage. His wife had been issued with a visit Visa in December 2013.”

6. In relation to the appellant’s claim to face a real risk from the Imamia Students Organisation (IOS) the Judge finds at [60]:

“60. The appellant claims that he received threatening letters from IOS, the Imamia Students Organisation. The letters appear with translations in the appellant’s bundle; both are undated but one of them was signed by the Divisional President of the Organisation, who identified himself as Khabir Ul Hassan Kazmi. Both letters contain threats that “we” would kill the appellant and his wife. The purpose of the IOS is stated as follows:

“The objectives of the Organisation is to build the lives of the young generation in accordance with the teachings of the Holy Koran, Prophet Mohammad and his progeny, so that they may become good and pious human beings, to defend the sanctity of the religion of Islam as well as the geographical and ideological boundaries of the God gifted Pakistan.”

In the section headed “Goals” the following appears:

“The new challenges and sectarianism peaking in the country the IOS has attempted to spread the message of unity among the Muslims at all levels.”

The purpose and goals, therefore, do not sit comfortably with the content of the letters from IOS. Furthermore, it is not credible that a named individual would take action to jeopardise the future of the organisation, let alone put himself at risk of a charge of conspiracy to murder. I therefore attach little weight to those documents.”

7. The appellant also relied upon a First Incident Report (FIR) which the Judge considered in detail between [61 – 68] of the decision under challenge. The Judge noted the Secretary States representative had produced a Document Verification Report (DVR) in respect of an October 2013 FIR which disclosed that checks with the authorities in Pakistan revealed that the reference/issue number on the FIR was concerned with the theft of a vehicle and that the date on the document checked by the authorities did not correspond with the date on the FIR provided by the appellant. The Judge noted the FIR related to an action said to have been commenced by the appellant rather than evidence of an official action commenced by the State against him. The Judge was clearly entitled to conclude that the 2013 document was not a genuine FIR and to place little or no weight upon the same. The finding by the Judge in relation to this aspect is set out at [65] of the decision under challenge and has not been shown to be infected by any arguable legal error.
8. Dr Bluth produced an initial report dated 13 April 2015 and a supplementary report dated 17 May 2016 both of which were considered by the Judge. The Judge considered the reports together with the other material provided and found them

to be lacking in depth and a detailed analysis which was not found to be “helpful”.

9. The Judge noted the appellant’s claim that his brother placed an advertisement in a newspaper in Karachi in May 2014 asking for information as to his whereabouts over a year after the appellant left Pakistan and that whilst the Judge notes Dr Bluth stated that the newspaper is authentic, the Judge did not find that this added anything to the reliability or the content of the article. The Judge notes this information was produced after the Secretary of State had found it would be reasonable for the appellant to live in Karachi some 1000 km away from the Punjab where he originated. The Judge also noted that the date of the production of the newspaper article cast doubt upon its authenticity especially in light of the fact the appellant’s family knew where he was as the appellant had said that he met his paternal cousin in Birmingham in his asylum interview. The Judge did not find it credible that the family in the UK, knowing of the appellant’s whereabouts, would not have informed the family in Pakistan.
10. At [67 -71] the Judge makes a number of findings, which are challenging in the application and by the appellant, in the following terms:

“67. There is no copy of an arrest warrant nor of the court orders. The documents in the appellant’s bundle at F1 – F6 are an application for the withdrawal of an arrest warrant and proceedings under an order dated 28 December 2014 and an application for exemption from appearing in person at court. Dr Bluth considers the court documents are genuine. Even if they are, in themselves the applications are not evidence of the arrest warrant or of the orders that underpinned them. As stated in VT, with reference to previous case law, “The involvement of lawyers does not create the rebuttable presumption that the documents they produce in this situation are reliable.” The order dated 28 December 2014 is said to have been issued in consequence of the FIR registered by the appellant’s father-in-law in October 2014 alleging the kidnapping of his daughter. This was almost three years after the couple married and two years after the families knew of their marriage. It is difficult to understand why, given the passage of time, the appellant’s father-in-law would go to such lengths when, as I have found above, they were aware that he was in the UK. I do not feel able to place any weight on the court documents.

68. The respondent states that the DVR establish that the F IR issued in January 2015 was not genuine. The FIR refers to an incident on 10 January 2015 when [SK] and his bodyguard were attacked. The appellant was in the UK at that time. It is stated in the FIR “The cause of the incident is that [MAK] tried to perform an act of love marriage with a girl who belongs to a Sunni family and he is a Shiite. I oppose this marriage so he attempted to kill me. Please take legal actions against him.” For a member of the National Assembly, the language is somewhat clumsy. Given that Mr Khan, was aware of the marriage in October 2012, it is difficult to understand why he waited until January 2015 before issuing the FIR. Furthermore, the family connection is

tenuous. Notwithstanding the reports of corruption, I do not find it plausible that a member of the National Assembly would choose, three years after the marriage, to get involved in the matter. I do not feel able to place any weight on the FIR.

69. Notwithstanding the reports of Dr Bluth, I have set out above my concerns about the documents provided by the appellant in this appeal, many of which were produced after the first refusal on the basis that they were said not to have been available at the relevant time. That in itself causes me to have concerns about their authenticity and reliability. Furthermore, the objective evidence describes the ease with which fraudulent documents can be obtained or have false FIR's filed. It is said that genuine FIR's are difficult to lodge.
  70. It is accepted that couples who marry against the wishes of parents or individuals who convert to one branch of Islam to another can face difficulties. That does not mean, however, that in every case the individuals will be at risk. In light of my concerns about the credibility of the appellant and the reliability of documents he has produced, even applying the lower standard of proof, I am not satisfied that the appellant has presented a genuine and credible claim.
  71. At its highest even if the core of his claim is true, I am not satisfied for the reasons set out above that he shown that state protection will be denied him. Accordingly, I do not find he has discharge the burden on him to show that he is in need of international protection."
11. Permission to appeal was initially refused by another judge of the First-Tier Tribunal on the basis the grounds are simply a disagreement with the findings made by the Judge and did not disclose an arguable error of law. Permission was, however, granted on a renewed application by the Upper Tribunal, the operative part of the grant being in the following terms:
- “3. The grounds of appeal contend, in summary, that firstly the First-Tier Tribunal errs in law by failing to give rational reasons for accepting that the DVR means that no weight could be given to the appellant’s 2015 FIR, see paragraph 67 of the decision, particularly as there was no DVR provided in relation to this FIR, but only one in relation to a FIR dated October 2013. This was a material error as it was important evidence in support of the appellant’s case, which was accepted by an expert report from Dr Bluth. This report was also not considered carefully enough as First-Tier Tribunal says that there is an error in it regarding the person [SK] (who is a member of an MP and related by marriage) when in fact this is not the case.
  4. The grounds of appeal are arguable, particularly in relation to the issue of the expert evidence of Dr Bluth.”

### **The submissions**

12. The appellant provided for the purposes of the error of law hearing a document entitled “Skeleton argument – error of law”. This is divided into a number of sections and, as the appellant was advised at the hearing, a number of those sections are not arguably relevant to the question of whether the Judge did err in

law. This applies in particular to [8] which challenges the decision of the Judge at [44] whereas the Judge makes no findings at all in this section of the decision, but merely records the submissions made during the course of the hearing. It is not made out the submissions have been recorded inaccurately such as to amount to an error of fact sufficient to amount to an error of law.

13. The sections of the skeleton argument relevant to the decision are those found at [4 - 7] in which the appellants alleges arguable legal error the following reasons:

“4. Reference to the determination [para. 68] and grounds for permission to appeal dated 24/12/2017 PTA [para.2], FtTJ records that respondent states the DVR establish the F IR dated 10/01/15 is not genuine, so she do not feel able to place weight on it. Whereas in her determination [para.48], FtTJ recorded:

“The Secretary of State does not produce the DVR for the FIR dated 10 January 2015.... Accordingly, the respondent has not proved that it is a false document.”

Thus, FtTJ is not reached factual and logical conclusion on the basis of given facts and whether the related evidences have or have not been produced before her.

a) refer to the same [para.68] and PTA [para.3], it is fairly arguable that ‘I am member of the National Assembly would choose three years after the marriage to get involved in the matter?’ The FtTJ assumed that for an MP to get into this matter after three years is somewhat implausible. This is contrary to [2002] UKAIT 00439, in the court room cases should not be judged on the basis of assumptions, perceptions or personal opinions.

5. Reference to PTA [para.4]: I have tried my best to prove my family relationship with ‘[SK]’, a prominent politician. Various evidences in relation to this has not been considered by FtTJ including and country expert report by Prof. Dr Bluth, FtTJ appears to reject his complete report stating that he erroneously describes the MP [SK] as my brother, but in fact he is referred to as my brother-in-law’s brother. FtTJ did not give proper attention to the expert report and hence erred in law.

6. Reference to PTA [para.5], it is evident that FtTJ findings about IOS are inadequate. In determination [para.60], she did not put weight on the ‘threat letters by IOS’ based on her continued assumptions. It is fairly arguable that ‘why are named individual would take action to jeopardise the future of the organisation?’ I didn’t say in any statement that are named individual is after my life, but this is the national network of IOS I fear of. FtTJ did not consider the fact that ‘Kazmi’ is ‘divisional president’ of IOS. My

family approach such higher authorities of IOS to get help finding me.

7. Reference to PTA [para.7] and determination [para.67], FtTJ records that the court documents consisted and 'application for the withdrawal of arrest warrants' and an 'application for exemption from appearing in person at court'. Despite knowing the contents of court documents, she do not feel able to place weight on the court documents based on her assumptions that "given the passage of time, why my father-in-law would to such lengths". She also rejected Dr Bluth's report without justification.

### Error of law

14. In his oral submissions MAK asserted the Judge did not understand the true nature of IOS which he claimed is an active terrorist organisation. MAK sought to rely upon new evidence that was not before the Judge at the date of the hearing in support of this assertion, but it cannot be an error of law for the Judge not to take into account evidence of which she was not aware. It was submitted there was before the Judge an article from Wikipedia relating to this group that appears to be the document considered by the Judge in support of the findings made. MAK asserted that he will face a real risk on return as IOS as a terrorist organisation, based upon what the group is actually doing in Pakistan.
15. MAK was asked, even if members of the IOS had such an intent as he alleges, how he would face a real risk on return in light of the fact this is not a substantial group, they would have no knowledge that he was returned to Pakistan and there was no evidence the influence of this group is such that it extended the whole of Pakistan and all its citizens such as to create realistic prospects of his return or resettlement in Pakistan being discovered. MAK stated he told the Judge in a statement that the group would spread his details and that it would not be safe for him wherever he went, but this is not a submission supported by adequate country information available to the Judge at the date of the hearing. The conclusion by the Judge in relation to IOS is in accordance with the material made available and adequately reasoned.
16. MAK further submitted that the Judge had not given proper consideration to the documents, in asserting there was no copy of the arrest warrant and no copy of the court order in the decision under challenge. MAK submitted that although there were no separate documents there was within the bundle a copy of an application made by the police to put an advertisement in the paper for him to be arrested. MAK asserted the copy of the newspaper article provided followed the application by the police and court order and that the Judge had available a copy of the court order relating to the newspaper article. MAK argued the Judge had made an irrational assumption and that he did not know if his father-in-law knew he and his wife are in the United Kingdom as he asserted there had been no contact between his wife and her parents. It was also asserted the Judge made similar assumptions at [67 and 68] assuming the named person was MAK's

brother-in-law whereas he is related in a different way and that the Judge got that wrong.

17. In relation to the documents; even if the Judge got the familial relationship incorrect it is not established that the findings made in relation to this individual are material to the overall conclusions.
18. It is not made out the Judge made assumptions or speculated in relation to the evidence such as to amount to a material legal error. A Judge is entitled to consider the evidence with a degree of common sense and it is not made out the Judge has based the decision on matters that were not known to the parties, such as to amount to a procedural irregularity, or outside the range of reasonable conclusions the Judge was entitled to reach. The Judge concludes that as the appellant met a cousin in the United Kingdom that cousin is more likely than not to have told the family in Pakistan where the appellant is, which has not been shown to be an unreasonable conclusion. It was also the case the family returned to Pakistan during the course of their visas and that the appellant's wife applied for a Visa to return to the United Kingdom as indicated in the chronology above. It is not unreasonable for the Judge to conclude that the family in Pakistan will know the appellant and his wife are in the United Kingdom.
19. In relation to the documentation, Mrs Aboni accepted the Judge erred in relation to a 2015 DVR as the only document of this nature produced related to the 2013 FIR; although the Judge noted the submissions made in relation to this document at [47 - 49] of the decision under challenge indicating the Judge was fully aware of the issues. I find this a reasonable submission. The Judge also notes the respondent's reasons for refusal letter which, in relation to the FIR's contains the following:
  - "19. Two FIR are relied on: first dated 5 October 2013 which was lodged by the Appellant at the Mustapha Abad Police Station following an attack on his home and an attempt on his life by his brother, his brother-in-law Fazal Abbas Khan and three unknown individuals. The second FIR, dated 10 January 2015, was lodged at the Silanwali Police Station by [SK], who reported that on that day the appellant, his friend and to unknown individuals on motorbikes, ambush him and his bodyguards. [MAK] stated that the appellant attempted to kill him because he opposed his marriage.
  20. Dr Bluth believes the second FIR is genuine but little weight can be attached to his findings. The respondent has carried out additional enquiries to determine the authenticity and reliability of the documents, which Dr Bluth did not. Verification checks conducted by the Home Office Immigration Enforcement at the British High Commission of Pakistan on 23 February 2017 concluded that neither FIR is genuine. The police station records do not match the details on the FIR's and there are discrepancies in the dates, number and offences. Furthermore, the country and further background information shows that it is possible to obtain fraudulent documents or documents that have been fraudulently authenticated. Submitting false documents in



a deceptive attempt to bolster his asylum claim seriously damage the appellant's credibility, as well as the reliability of any other supporting evidence."

20. The Judge had available to her country information relating to the ease in which false documents can be obtained in Pakistan. The respondent's Country Information and Guidance Report, at section 15, notes:

'15. Forged and fraudulent documents

15.1.1 Sources dated between 2012 and December 2014, identified by the Research Directorate, Immigration and Refugee Board of Canada, indicated that the availability and accessibility of forged and fraudulent documents, including academic qualifications, bank statements and property deeds, was widespread in Pakistan<sup>126</sup>.

15.1.2 DFAT stated in its January 2016 report on document fraud in Pakistan, noting that:

'NADRA has improved the CNIC and passport-issuing process, reducing the incidence of CNIC and passport fraud. However, genuine documents are sometimes issued under false pretences. In late August 2015, for example, Pakistan's Federal Investigation Authority was reportedly investigating NADRA's alleged issuance of fake CNICs to militants in return for bribes as low as US\$100. Pakistani authorities have put in place measures to combat fraudulent issuance of CNICs and can cancel CNICs which are bogus. DFAT has a high degree of confidence in NADRA's ability to determine the identity of Pakistani nationals using biometric and other information, with or without valid travel documents.

'Document fraud is endemic in Pakistan, particularly in those forms of documentation not issued by a competent central authority such as NADRA. For example, it is relatively simple to fraudulently produce police-issued FIRs using existing FIR book numbers. FIRs are hand-written standard forms. There is credible evidence of police in Pakistan accepting bribes to verify fraudulent FIRs. The existence of an FIR does not therefore constitute evidence that the described events actually occurred.

'More broadly, DFAT is aware of numerous cases of false school and academic records, birth certificates, death certificates, medical records, bank records and documents issued in a legitimate format without proper verification by Pakistani authorities. Pakistan journalists have advised DFAT that people can publish false stories in newspapers for a fee, although this trend appears to be in decline.'

21. It has not been shown on the evidence that the findings made by the Judge in relation to the validity of the FIR's or findings in relation to the lack of risk posed to the appellant as a result of the other documents provided falls outside the range of reasonable conclusions the Judge was entitled to make. The Judge was not bound to accept the opinion of Dr Bluth but had to give adequate reasons for departing from the opinion of the expert. In this case the Judge gives adequate reasons as Dr Bluth stated the documents were genuine as they are in the proper format and contain authentication proper stamps of the clerk of the court, without setting out any basis on which it could be established Dr Bluth is an expert in assessing Pakistan legal documents, and in light of the additional

information before the Judge which established that the published opinion that the FIR's are genuine has been shown to be wrong. The Judge gives adequate reasons for the weight given to the expert evidence which was a matter for the Judge.

22. This is also not a decision that appears to be affected by any artificial separation of any aspect of the evidence as the Judge clearly took into account all the material that had been provided. The Judge was arguably entitled to find that just because a document had been published in a newspaper, or an application completed, that this did not necessarily establish that it represented genuine corroboration of the appellant's claim. The Judge concludes, having considered all the evidence, that this is a false claim. The Judge gives adequate reasons why that is so.
23. The appellants also failed to establish that even if a FIR was genuine, which the Judge reasonably concluded was not the case, that he would not receive a fair hearing/trial if returned to Pakistan or would suffer persecution or ill-treatment as a result of his marriage and religious beliefs by the authorities in Pakistan. It was not made out the State will subject him to imprisonment or ill-treatment sufficient to amount to persecution for a Convention reason. It was not made out the State could not protect the appellant from extremist groups if they did express a genuine intention in target him. The Judge concludes to this effect at [71] which is a finding not challenged by the appellant in his grounds seeking permission to appeal. As, even taking the appellant's case it is highest, the Judge concludes in an unchallenged finding that the appellant has the availability of a sufficiency of protection and had not discharge the burden of proof to show he is in need of international protection, no arguable legal error is made out.
24. The appellant attempts to 'chip away' at the various stepping stones used by the Judge in arriving at the decision to dismiss the appeal. The appellant fails to establish, however, that even with those matters which are conceded by the respondent as not being correct, that any arguable legal error material to the decision to dismiss the appeal has been made out. Disagreement with the conclusions of the Judge or desire for a more favourable outcome does not, per se, establish arguable legal error sufficient to warrant the Upper Tribunal interfering in this judgement.

### Decision

25. **There is no material error of law in the Immigration Judge's decision. The determination shall stand.**

Anonymity.

26. The First-tier Tribunal make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson

Dated the 5 September 2018