



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/12374/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**Promulgated**

**On 8 August 2019**

**On 16 August 2019**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**Mrs SAKINA [B]  
(NO ANONYMITY DIRECTION)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr G Lee, Counsel  
(instructed by Dean Manson LLP Solicitors)

For the Respondent: Ms S Jones, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. Permission to appeal was granted by Designated First-tier Tribunal Judge Macdonald on 28 May 2019 against the decision to dismiss the Appellant's protection appeal made

by First-tier Tribunal Judge Geraint Jones QC in a decision and reasons promulgated on 24 April 2019.

2. The Appellant is a national of Pakistan, born on 21 January 1950. She is a widow and has two daughters living in the United Kingdom. The Appellant made visits to the United Kingdom in 2006 and 2016, returning to her home in Pakistan afterwards. She claimed asylum during a further visit to the United Kingdom in 2018. She alleged that she was at risk from religious fanatics because one of her daughters had married an Ahmadi. Her protection claim was refused by the Respondent on 11 October 2018.
3. Judge Jones QC found that the Appellant's fear of return was not objectively well founded, for a number of reasons: see [31] onwards of his determination where those reasons are set out in detail and which need not be repeated here. The judge found that the Appellant had not shown that she had been targeted by non-state agents, and that parts of her claim had been fabricated. Thus the appeal was dismissed.
4. Permission to appeal was granted by Designated Judge Macdonald because it was considered arguable that the judge had not taken into account material evidence. It would, however, be for the Appellant to show that the evidence in question had in fact been placed before the judge and had been translated. The evidence in question were translations into English of untranslated WhatsApp texts which were at pages 24 and 25 of the Appellant's appeal bundle.
5. Ms Jones for the Respondent indicated that the onwards appeal was opposed, although no rule 24 notice had been filed.
6. Designated Judge Macdonald had indicated a need for further supporting evidence when granting permission to appeal. At the start of the hearing I made available to both parties the tribunal file, containing the Appellant's Notice of Appeal, the trial bundles and the manuscript record of proceedings kept by Judge Jones QC. These were examined by the advocates and copies of documents were provided. Ms Jones provided a copy of the Home Office Presenting Officer's notes of the hearing. Mr Lee informed the tribunal that no notes of the hearing were available from the Appellant's solicitor who had conducted the First-tier Tribunal hearing. The solicitor would, however, be

called as a witness and had made a witness statement dated 6 August 2019.

7. Following a careful examination of the First-tier Tribunal file, it was agreed that the translations were not included in the Appellant's bundle. The WhatsApp texts were mentioned in the Appellant's Notice of Appeal but had not been exhibited to the Notice of Appeal.
8. Mr Lee for the Appellant relied on the grounds submitted and the grant of permission to appeal. The Appellant's case was that the First-tier Tribunal judge had not considered all of the material evidence which was an obvious error of law.
9. Mr Muzaffar Mansoor, solicitor, ("Mr Mansoor") gave evidence. He confirmed the truth of his witness statement dated 6 August 2018, which stood as his evidence in chief. There in summary he stated that he had presented the appeal before Judge Jones QC. Mr Mansoor said he had not liked the judge's approach. He stated at paragraph 3: "During the hearing I did refer to the FTTJ the evidence at pages G1, H1, H2 including letter and WhatsApp messages at pages 21 and 21A of the grounds of appeal in support of a reference in the grounds of appeal." (sic)
10. In supplementary questions Mr Mansoor said that the WhatsApp documents had been mentioned in the grounds of appeal. They had been translated for the court by the court interpreter. He then said that he thought the page of translation (marked "21A") had been handed to the judge with other loose documents at the stage of closing submissions.
11. Asked to confirm that the court interpreter had translated the documents, Mr Mansoor said that the judge had intervened and asked what the documents were. Mr Mansoor could not say why the documents were not in the appeal bundle. Nor could he explain why they had not been attached to the grounds. He was however certain that the court interpreter had translated them.
12. Cross-examined, Mr Mansoor was asked why if he had the translation of the WhatsApp messages with him, there had been any need to involve the court interpreter? Mr Mansoor replied that the documents were not in English. He became agitated and accused the Home Office Presenting Officer of making a serious allegation. Pressed to answer, he replied that he did not know. He reiterated

that he had tendered the document in submissions. He was then asked whether he usually tendered documents at the stage of submissions, rather than at the start of the hearing. He said he thought he might have forgotten.

13. Re-examined, Mr Mansoor said that he had first appreciated that there was no translation when the judge pointed it out. He had given it from his loose sheets. He believed that the translation had been before the tribunal.
14. Mr Lee submitted that if his principal submission that the translation had been before the tribunal and had not been considered were not accepted, he further submitted that all the evidence had not been taken into account. There had been a handwritten letter before the judge describing threats which was material evidence which had not been considered and on which no proper finding had been made. That was a material error of law. The determination should be set aside and the appeal reheard before another judge.
15. Ms Jones submitted that the Appellant had failed to prove that the translation had been before the judge at any stage of the hearing. The judge had addressed every point in the Appellant's story and had dealt with the claimed threats at [39 (ix)] of the determination. It had been claimed that the threats were all linked. The translations now seen bore no weight in any event as they were dated the day before the handwritten letter, and in some instances later than that. The letter bore no weight. There was no material error of law in the First-tier Tribunal's determination and the judge's findings were sustainable. The appeal should be dismissed.
16. In reply Mr Lee drew attention to the judge's use of the term "self-serving", which had been deprecated by the Court of Appeal as a term of evidential analysis. While points could perhaps be taken against some of the Appellant's documents, there remained evidence of threats which the judge had failed to deal with.
17. The grant of permission to appeal by Designated Judge Macdonald was in effect conditional on the production of satisfactory further evidence. That condition was not fulfilled. I find as a fact that no translation of the Urdu WhatsApp messages was ever produced to Judge Jones QC. The First-tier Tribunal file was closely examined at the start of the error of law hearing and there was no trace of the so called "loose" documents claimed by Mr Mansoor. There

was no mention of any translation being undertaken in court in the judge's determination, which provided a detailed summary of the evidence and the course of the hearing, nor in the judge's record of proceedings nor in the Home Office Presenting Officer's note. Mr Mansoor accepted that he made no note at all of the hearing. There is no mention of the WhatsApp messages or of any translation of them in his skeleton argument nor in the judge's note of Mr Mansoor's submissions.

18. I find that Judge Jones QC's determination provides a full and accurate record of the evidence given at the hearing. It is correct that no alleged screen shot was referred to him in the course of the evidence: see [31(viii)] of the determination. No translation was produced to him. In fact pages 25 and 26 of the Appellant's appeal bundle contain untranslated Urdu texts dated "Sat 7 Apr" which are WhatsApp screenshots, but the fact that the judge did not know what they were is of no significance, as they were incomprehensible without a certified translation, and were less than clear in any event. No context for them was provided and they are a clear example of selective disclosure.
19. The alternative submission valiantly made by Mr Lee cannot carry the day. Judge Jones QC carefully considered all of the evidence of alleged threats and made specific reference to the Appellant's appeal bundles which he plainly examined. He addressed the evidence of alleged threats from religious fanatics at [38 (vii)] of the determination and reached conclusions which were open to him.
20. The judge considered the evidence meticulously. Nothing turns on his use of the term "self serving" as he gave reasons for all his findings. His findings might even be considered generous, accepting as he did the burglary in 2012 or 2013, and a road traffic incident in 2013, although he gave proper reasons for not accepting the Appellant's claims that they were examples of persecutory activity against her by non-state agents. The judge was entitled to draw proper inferences from his primary findings and to ask why this feeble protection claim should have been advanced when it was. His conclusion that there was a family link which was why the claim had been invented was open to him.
21. As the judge correctly identified, the Appellant's credibility was central to the appeal. The country background

evidence for Pakistan was not in serious dispute. The Appellant's asylum application had many if not most of the hallmarks of a contrived claim: late claim not made at the first opportunity, lack of detail and general vagueness, serious inconsistency, excessive coincidence and selected, doubtful documents produced with no context.

22. In my judgment the First-tier Tribunal Judge reached careful and sustainable findings, in the course of a thorough, balanced determination, which securely resolved the issues and applied the correct lower standard of proof. I find that there was no material error of law and the onwards appeal must be dismissed.

### **DECISION**

The appeal to the Upper Tribunal is dismissed.

There was no material error of law in the First-tier Tribunal's decision and reasons, which stands unchanged.

**Signed**

**Dated** 15 August 2019



**Deputy Upper Tribunal Judge Manuell**

