



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/13455/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 11<sup>th</sup> October 2019**

**Decision**

**Promulgated**

**On 6<sup>th</sup> November 2019**

**&**

**Reasons**

**Before**

**UPPER TRIBUNAL JUDGE JACKSON**

**Between**

**MH**

**(ANONYMITY DIRECTION MADE)**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: Ms N Khan of Buckingham Legal Associates Ltd  
For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Cockrill promulgated on 2 July 2019, in which the Appellant's appeal against the decision to refuse his protection and human rights claims dated 22 December 2016 and 22 October 2018 was dismissed.
2. The Appellant is a national of Pakistan, born on 1 January 1972, who first arrived in the United Kingdom with entry clearance as a visitor to 30 November 2010. The Appellant was encountered by immigration officers on 12 January 2011 and identified as an overstayer and released on reporting conditions which he did not comply with. The Appellant was

similarly encountered in 2014, following which he made an unsuccessful application for an EEA Residence Card. The Appellant was next encountered on 19 June 2016, arrested and detained, following which he claimed asylum on 19 June 2016. The basis of the Appellant's asylum claim was that he was at risk on return to Pakistan from his brother-in-law who had threatened him in relation to his arranged marriage.

3. The Respondent refused the application the basis that the Appellant's claim did not fall within the Refugee Convention and in any event, it was not accepted that the Appellant would be at risk on return from his brother-in-law. The claim was inconsistent and contradictory as well as lacking in detail such that it was not accepted as credible. The Appellant's credibility had also been damaged by the delay in claiming asylum pursuant to section 8 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004. For essentially the same reasons the Appellant was not entitled to humanitarian protection, nor would his removal be a breach of Articles 2 and/or 3 of the European Convention on Human Rights.
4. The Respondent further refused the human rights claim on the basis that the Appellant did not have a partner or child in the United Kingdom and the requirements of paragraph 276ADE of the Immigration Rules was not met. There were no exceptional circumstances or any other reasons for a grant of leave to remain.
5. Judge Cockrill dismissed the appeal in a decision promulgated on 2 July 2019 on all grounds. At the hearing before the First-tier Tribunal, it was accepted on behalf of the Appellant that he did not fall within the Refugee Convention, instead relying on humanitarian protection and human rights grounds. There was medical evidence before the First-tier Tribunal that the Appellant was not fit to give oral evidence for mental health reasons such that the appeal was determined on the basis of written evidence and submissions only.
6. In relation to the Appellant's claim, the First-tier Tribunal found that the Appellant was unhappy in his arranged marriage, which was one of the promptings as to why he chose to come to the United Kingdom and that there may be some truth in his claim to have had difficulties with his brother-in-law. However, it was not considered to be credible that the Appellant's brother-in-law would pursue the Appellant from city to city in Pakistan with a view to causing him harm and that aspect of the claim was found to be exaggerated. The assessment made as to the potential risk from the Appellant's brother-in-law is that it "*really is minimal*" and references are then made to Pakistan being a large extremely populous country and it not being accepted that one individual would take it upon himself to pursue the Appellant and to cause him harm. On the basis of these findings, the Appellant could safely return to Pakistan. The Appellant's credibility was also damaged by the delay in his claim for asylum.

7. The Appellant's mental health is considered specifically in paragraphs 33 and 34 of the decision, with a summary given of the report from a psychiatrist and the finding that the Appellant's circumstances do not meet the very high test set out for a breach of Article 3 in medical cases, in particular where risks arising removal could be managed and where health services exist in Pakistan.
8. Finally, the First-tier Tribunal concludes that there is no breach of Article 8 of the European Convention on Human Rights on health or private life grounds as there would not be very significant obstacles to his reintegration into Pakistan and taking into account the Appellant's precarious immigration status and the other factors in section 117B of the Nationality, Immigration and Asylum Act 2002.

### **The appeal**

9. The Appellant appeals on three grounds. First, that the First-tier Tribunal materially erred in law in making inconsistent findings as to risk on return having found as a fact that the Appellant was in an unhappy marriage and had difficulties with his brother-in-law. There is a failure to have regard to the prevalence of honour killings in Pakistan as context for the claimed risk. Secondly, that the First-tier Tribunal materially erred in law in making inadequate findings as to precisely what part of the Appellant's case was believed found to have been exaggerated. Finally, that the First-tier Tribunal materially erred in law in disregarding the expertise of the psychiatrist and failing to consider whether internal relocation was a reasonable option in light of the Appellant's mental health problems.
10. At the oral hearing, submissions were made by Ms Khan on behalf of the Appellant on the two main issues, first the assessment of the Appellant's credibility and second the assessment of medical evidence as to the Appellant's mental health problems. In relation to credibility, it was admitted that the Appellant's claim was not entirely implausible and it was unsatisfactory in paragraph 31 for the First-tier Tribunal to have made findings of fact in the negative as a binary question on this issue. It was submitted that there were a lack of reasons given by the First-tier Tribunal for why the Appellant's brother-in-law would want to pursue him, however reasons were given by the Appellant in his written statement and the Judge made no assessment of his brother-in-law's ability to find the Appellant in Pakistan. The way that the decision is phrased in paragraph 31 suggests that the Appellant's brother-in-law would only not want to pursue the Appellant because of the size of the population in Pakistan, which at best conflates two separate issues.
11. On the second issue, it was submitted that there had been an inadequate assessment of the medical evidence available before the First-tier Tribunal and that the Judge erred in considering whether harm would actually occur rather than the risk of such harm. The medical evidence was not considered in the round as part of the claim for humanitarian protection and overall it was submitted that there had not been a proper or adequate

consideration of Articles 3 and/or 8 of the European Convention on Human Rights.

12. On behalf of the Respondent, Mr Lindsay submitted in relation to the assessment of credibility that the First-tier Tribunal was entitled to disbelieve the Appellant having had the benefit of all of the evidence available to it. Further, that an adequate assessment of credibility had been made, with findings that it was not credible that the Appellant would be pursued across Pakistan by his brother-in-law and the risk to him on return would be minimal such that he could safely return. The fact that low-level tension between family members had been accepted does not assist and is not uncommon but there was lack of evidence of any willingness or ability to pursue the Appellant.
13. In relation specifically to the Appellant's brother-in-law's ability to pursue him in Pakistan, there was only limited evidence in paragraph 29 to 33 of the Appellant's written statement on this point, which was fully considered by the First-tier Tribunal and clear reasons were given. There was nothing in the evidence available to indicate that either the Appellant's brother-in-law or any of his associates were capable of locating the Appellant across Pakistan and nothing further in the skeleton argument on behalf of the Appellant to support such a claim. In these circumstances, the First-tier Tribunal was entitled to do with the point relatively shortly.
14. On the second issue, it was submitted that prior to the Appellant's arrival in the United Kingdom in 2008/2009, he was able to independently relocate within Pakistan and had not specifically relied on any obstacles to reintegration or relocation on return now. There was no evidence before the First-tier Tribunal that the Appellant would be unable to access healthcare in Pakistan, which is available there.
15. Further, it was submitted that there were real problems with the medical report relied upon by the Appellant given contradictions contained within it as to the Appellant's prognosis with appropriate treatment, a lack of reasons for why the Appellant was said not be able to cope on return and no reasons as to why the Appellant could not access treatment in Pakistan when he has been able to do so in the United Kingdom.
16. In addition, the report does not comply with the Immigration and Asylum Chambers of the First-tier Tribunal and the Upper Tribunal Practice Directions, section 10 as it does not contain the required statement about the author's duty to the Tribunal, nor the prescribed statement of truth and fails to include any express consideration of facts which may detract from the Appellant's claim or self-reporting of symptoms. In such circumstances, the report cannot be considered as expert evidence, which significantly reduces the weight which can be attached to it.
17. Overall, Mr Lindsay submitted that the First-tier Tribunal had given sufficient reasons to find that the Appellant would not face a real risk of persecution on return to Pakistan and even if expressly considered, his

case could not succeed on the evidence on the basis of the decision in J v Home Secretary [2005] EWCA Civ 629.

### **Findings and reasons**

18. In relation to the first ground of appeal, as to how the First-tier Tribunal dealt with the Appellant's credibility and risk on return to Pakistan, it is necessary to consider in more detail the evidence before the First-tier Tribunal upon which the findings were made.
19. The evidence before the First-tier Appellant as to the claimed risk from his brother-in-law was contained almost entirely in his asylum interview and written statement dated 27 May 2019. That evidence was relatively thin and lacking in detail. He stated that in Pakistan, he was beaten up by his brother-in-law on two or three occasions and his leg was burned. There is no other detail at all of these incidents. He further states that having relocated to Karachi, he was located by his brother-in-law after three months, who punched him and returned him to the home area, threatening him during a journey which lasted about 20 hours. The Appellant states that he also tried to relocate to Multon and Lahore, for one and two months respectively before his brother-in-law located him, threatened him and beat him up. The Appellant approached the police in Pakistan on one occasion, but no action was taken and the following day he was beaten up again for going to the police by his brother-in-law. The Appellant states that his brother-in-law would be able to find him anywhere in Pakistan because he had connections to robbers, thieves and local representatives for parties who were powerful people.
20. The Appellant fears that his brother-in-law would always try to find him and torture him because the fact that he had left his wife was embarrassing for the family who faced added pressure of the community raising questions about the relationship. In around 2014, the Appellant's brother-in-law called his mobile in the United Kingdom and threatened his then partner to kill her and the Appellant.
21. The medical report about the Appellant provides even less detail as to the Appellant's claimed experiences in Pakistan, merely containing repeated references to traumatic times in that country and one reference to being kidnapped and held for 2 to 3 days in Pakistan which is not consistent with information given him his asylum interview or written statement.
22. On the basis of the very limited evidence available to the First-tier Tribunal, I find that adequate findings were made on his claimed risk on return to Pakistan and adequate reasons given for those findings. The fact that the First-tier Tribunal accepted that the Appellant was unhappy in his arranged marriage and may have had difficulties with his brother-in-law, is not inconsistent with the finding that any risk posed by the latter was minimal. In paragraph 31 an express finding is made that beyond those matters, the Appellant has exaggerated his claim, specifically the claim that his brother-in-law would pursue him throughout Pakistan with a view

to causing him harm and that there was considerable exaggeration of the threat posed by the Appellant's brother-in-law.

23. Although to some extent the findings in paragraph 31 appeared to conflate the two issues of whether the Appellant's brother-in-law first, had the desire to track him throughout Pakistan to cause him harm, and secondly, the means by which to locate him and do so; it cannot be read in context as a finding that there is no desire to harm the Appellant because of the large and populous nature of Pakistan. Paragraph 31 of the decision, against the findings in paragraph 30 referred to above, can only reasonably be read as concluding that the Appellant's brother-in-law only poses a minimal risk to the Appellant. This is in part because, having found that there may be some truth in difficulties between these individuals, it was not sufficiently serious that the Appellant's brother-in-law would pursue the Appellant throughout Pakistan to cause him harm. In any event, there was a lack of any detailed evidence as to the means by which the Appellant's brother-in-law could in fact track him down throughout Pakistan on return now, several years after he left the country and five years since the Appellant claims to have been threatened by him.
24. In these circumstances I find no error of law in the First-tier Tribunal's assessment of the Appellant's credibility, which also appropriately relied upon the delay of around six years before a claim for asylum was made, despite the Appellant's evidence that he fled Pakistan to escape persecution in 2010. Sufficiently detailed findings and reasons are given, reflecting the nature and extent of the evidence before the First-tier Tribunal.
25. In relation to the second issue, the assessment of medical evidence, although not directly relied upon in the decision of the First-tier Tribunal, I find force in the submissions on behalf of the Respondent as to the shortcomings of the psychiatric report relied upon which self-evidently on its face does not comply with the Practice Direction for such reports. In any event, it is clear from paragraphs 33 and 34 of the decision that the report has been given some weight, with acceptance of the clinical analysis that the Appellant is suffering from anxiety, fearfulness, PTSD and a depressive disorder and that recommendations have been made for treatment but that at that time, the Appellant was not in receipt of any anti-psychotic medication.
26. In paragraph 33 of the decision, the differing descriptions in the psychiatric report as to suicide and self-harm or risk are noted and in paragraph 34 the doctors belief that the Appellant will not be able to cope on return to Pakistan is expressly not relied upon within the overall assessment. When considering the medical report itself, it is notable that no detailed assessment is made of the Appellant's likely situation on return to Pakistan and no reasons at all are given as to why he would be at risk of re-victimisation by others in Pakistan, why he would be defined as a vulnerable male and why he would not be able to cope with unspecified challenges in Pakistan. Further, no reasons are given as to why the Appellant would be unable to access treatment available on return to

Pakistan. There is a distinct lack of any detailed assessment of risk of suicide, with various inconsistent references to a high risk of self-harm, fleeting suicidal ideation and escalation to a risk of attempted suicide, as well as a conclusion of a current risk of committing suicide.

27. The First-tier Tribunal has attached appropriate weight to the psychiatric report and has reached findings on it and on the Appellant's mental health which were open to it to make on the evidence available, which contained significant shortcomings as highlighted above. Together with the findings that the Appellant does not face any objective fear of persecution on return to Pakistan and the high threshold for breach of Articles 3 and/or 8 of the European Convention on Human Rights on medical and in particular mental health grounds; I find no error of law in the First-tier Tribunal's decision in this regard, which is one which was open to it on the evidence available.
28. I find no separate error of law in relation to the First-tier Tribunal's assessment of paragraph 276 ADE of the Immigration Rules as to whether there would be very significant obstacles to the Appellant's reintegration into Pakistan. No specific factors were relied upon by the Appellant as to any obstacles to reintegration and as above, no reasons at all given as to why he would be unable to access medical treatment in Pakistan. There is no unlawful failure by the First-tier Tribunal to not take into account the Appellant's mental health when considering reintegration and Article 8 more generally, to the contrary, adequate reasons are given for the findings which clearly take this into account in paragraph 35 of the decision.
29. For these reasons, there is no error of law in the decision of the First-tier Tribunal dismissing the Appellant's appeal on all grounds and that decision is therefore confirmed.

### **Notice of Decision**

The making of the decision of the First-tier Tribunal did not involve the making of a material error of law. As such it is not necessary to set aside the decision.

The decision to dismiss the appeal is therefore confirmed.

### **Direction Regarding Anonymity - 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 their 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.

Signed   
2019

Date 1<sup>st</sup> November

Upper Tribunal Judge Jackson