



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/03475/2019 &
PA/03476/2019

THE IMMIGRATION ACTS

Decided at Field House

On 16 December 2020

Decision & Reasons

Promulgated

On 17 December 2020

Before

UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

**RK
KM**

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Decision made under rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Though aware that it will usually be in the public interest for proceedings to be conducted by means of open justice, I am mindful that the appellants have sought international protection and I make this

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order to avoid a likelihood of serious harm arising to them from the contents of their protection claim being publicly known.

Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellants. This direction applies to, amongst others, the appellants and the respondent. Any failure to comply with this direction could give rise to contempt of court proceedings

1. The Tribunal has previously set aside the decision of the First-tier Tribunal in this matter by means of a decision of UTJ Bruce sent to the parties on 19 November 2019.
2. By email correspondence dated 10 December 2020, Mr. McVeety, Senior Presenting Officer, confirmed that the respondent had taken the decision to withdraw her decisions refusing the appellants' application for international protection, dated 14 March 2019, and to grant the appellants asylum status based on the individual circumstances of their appeal.
3. Mr. McVeety seeks to vacate the hearing of this matter listed at Bradford on 18 December 2020.
4. This Tribunal confirmed in *SM (withdrawal of appealed decision: effect) Pakistan* [2014] UKUT 64 (IAC) that rule 17 of the Tribunal Procedure (Upper Tribunal) Rules 2008 ('the 2008 Rules'), concerned with withdrawal, does not enable the Upper Tribunal to withhold consent to the withdrawal by the respondent of the decision against which a person appealed to the First-tier Tribunal.
5. The Tribunal confirmed that where such a decision is withdrawn in appellate proceedings the Tribunal continues to have jurisdiction under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 to decide whether to re-make the decision in the appeal, notwithstanding the withdrawal of the appealed decision. Withdrawal is not, without more, one of the ways in which an appeal under section 82 of the Nationality, Immigration and Asylum Act 2002 ceases to be pending. Consequently, withdrawal does not terminate the appellant jurisdiction of the Tribunal and it may complete its appellate functions by remaking the decision. Further, withdrawal of the respondent's decision does not mean that an appeal must be treated as academic.
6. I am required to apply the overriding objective confirmed by rule 2 of the 2008 Rules and to have regard to all relevant matters, including the principle that the respondent should, ordinarily, be the primary decision-

maker in the immigration field and the reasons underlying the respondent's withdrawal of the appealed decision.

7. In this matter the respondent has accepted that the appellants meet the criteria for refugee status. This is a determinative factor in proceeding to formally consider the appeal and allow the appeals on asylum grounds.
8. Consequent to such decision, there is no requirement that the appellants' human rights appeals be considered.

Notice of decision

9. Upon the Upper Tribunal having previously set aside the decision of the First-tier Tribunal the decision is remade, and the appellants' appeals are allowed on asylum grounds.
10. An anonymity direction is made.

Signed: D. O'Callaghan
Upper Tribunal Judge O'Callaghan

Dated: 16 December 2020