



IAC-AH-SAR-V1

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

Appeal Number: PA/05362/2019

THE IMMIGRATION ACTS

**Heard at Bradford
On 21 February 2020**

**Decision & Reasons Promulgated
On 14 April 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**RK
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Khan

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born in 1992 and is male citizen of Bangladesh. He entered the United Kingdom as a student in 2016. He claimed asylum in November 2018. By a decision dated 25 May 2019, the Secretary of State refused his application for asylum. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 12 August 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

Number: PA/05362/2019

2. The appellant did not attend the appeal before the First-tier Tribunal on 23 July 2019. He had written to apply for an adjournment claiming that, shortly before the hearing, he had fallen and injured his back. The grounds of appeal complain that the judge did not have regard to medical evidence submitted and that the judge failed to follow the procedure rules as regards the application for an adjournment. Having proceeded in the absence of the appellant, the appellant asserts that the judge failed to consider all relevant circumstances when determining the appeal. It emerged from submissions made by Mr Khan, who appeared for the appellant before the Upper Tribunal, that various discrepancies in the appellant's evidence could, so the appellant now claims, have been explained had the appellant been given the opportunity to give oral evidence before the Tribunal.
3. I find that the appeal should be dismissed. I am completely satisfied the judge has correctly followed the Procedure Rules as regards the adjournment application. She has accurately cited the appropriate rule at [12] and has gone on to apply it making reference to relevant jurisprudence [13]. She paid detailed attention to such medical evidence as she had before at the date of the hearing [11], namely a letter from the appellant's GP in Newcastle upon Tyne which had been written without sight of any information at all from the Accident and Emergency Department at Halifax which the appellant claims to have attended following his accident. Whilst acknowledging that the GP was wishing to be helpful, the judge quite correctly attached very little weight to his letter given that the doctor could say nothing of relevance regarding the injury or its effect upon the appellant and, indeed, did no more than to comment that there was no reason to disbelieve the appellant whom the GP had always considered to be a 'straightforward and honest patient.' At the Upper Tribunal initial hearing, I was given a copy of a subsequent medical report providing further details of the appellant's injury. However, this document is dated 9 August 2019, that is after the First-tier Tribunal hearing; obviously, the judge cannot be criticised for failing to have regards to evidence which had not been created by the time she determined this appeal. The judge was also entitled to have regard to the fact that the adjournment application made to her was the third advanced by this appellant, previous applications on the same grounds having been refused by judicial colleagues. Moreover, I find that it was plainly open to the judge to reach the robust finding [15] that the appellant had never intended to attend the hearing on 23 July 2019 and there was nothing in the evidence before her which suggested that he was medically unfit to attend.
4. Mr Khan attempted to expand the scope of the grounds of appeal in his oral submissions at the initial hearing. However, it is clear that the second ground of appeal, concerning the alleged failure of the judge consider all relevant circumstances, refers only to the refusal to grant an adjournment. There is nothing at all in the judge's detailed analysis of the written evidence which suggests that she made any error of law. The judge was fully entitled to attach less weight to the evidence submitted by and on

Number: PA/05362/2019

behalf of the appellant (see the analysis of the evidence of Mr Islam at [43]) given that none of that evidence was tested under cross-examination. Accordingly, Mr Khan's submissions amount to nothing more than a disagreement with findings which were available to the judge on the evidence which was before the Tribunal.

Notice of Decision

This appeal is dismissed.

Signed
Upper Tribunal Judge Lane

Date 23 February 2020

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.