



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

Appeal Number: AA/08718/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 27 November 2013  
Decision Prepared 27 November 2013**

**Decision Promulgated  
On 11 December 2013**

**Before**

**UPPER TRIBUNAL JUDGE MCGEACHY**

**Between**

**MUHAMMAD SHAFIQ**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr P D Norris, of Counsel instructed by Messrs Lawrence & Associates Solicitors

For the Respondent: Mr P Nath, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, a citizen of Pakistan born on 28 July 1977 appeals, with permission, against a decision of Judge of the First-tier Tribunal Fox who in a determination promulgated on 2 October 2013 dismissed the appellant's appeal against a decision of the Secretary of State to refuse to grant asylum.
2. The basis of the appellant's claim to asylum was that he faced persecution in Pakistan because of his membership of the MSF (Muslim Student Federation). That group had been in a fight with a group known as the PSF after which the appellant claimed he an FIR had been lodged against him

and that he had been accused of murder. He claimed that he had been jailed for a year before being granted bail in October 1998.

3. The appellant also claimed that he had faced rape charges brought by a Muhammad Aslam on the charge of raping his daughter Rahana in an attempt to blackmail him into marriage.
4. On release from detention the appellant said that he had lived in Pakistan but had travelled backwards and forwards to Pakistan on a number of occasions before coming to Britain as a student. He claimed that he would face persecution now on return as there were still outstanding charges against him. He is married to a Pilipino woman who is Christian and lives in the Philippines.
5. The judge did not set out any detail of the appellant's claim in his determination nor indeed did he set out any particular detail of the evidence given to him.
6. His findings in paragraphs 37 onwards did, however, include reference to documentary evidence which had been placed before him including two FIRs and translations thereof. In paragraphs 42, 43 and 44 of the determination he gave reasons for his findings stating:-

“42. I also note that the document relied upon dated 2 January 2013 encoded as Case No. 193/97 is actually stipulated as 193/98 on the Urdu version of the document. It is an unusual feature that the translated document should correspond with the appellant's claim although the original document does not. I consider the prevalence and ease with which fraudulent documents are available in light of this discrepancy (Pakistan Country of Origin Report dated 7 December 2012 (“COI report”) paragraph 33.01 considered).

43. However, notwithstanding this anomaly it is reasonable to conclude that any arrest warrant for the appellant has been issued legitimately. The appellant's evidence is that he is actively sought in relation to murder and he has had the historic and current benefit of legal representation and due legal process throughout the proceedings.

44. Taking the appellant's claim at its highest the appellant relies upon self-serving and uncorroborated claims of persecution by PSF and Mr Islam to support his claim for asylum. For the reasons stated above it is reasonable to conclude that the appellant is a fugitive from justice and the appellant is able to avail himself of due legal process to answer to any allegations that are brought against him. The objective material does not assist the appellant in these circumstances.”

7. In the following paragraph he found that the appellant's immigration history damaged his credibility but he did not make a clear finding that he did not find the appellant to be credible. He dismissed the appeal.

8. The grounds of appeal stated that the judge had misdirected himself in paragraph 42 of the determination in considering the FIRs as he had linked the translation of one FIR to the other FIR and vice versa. It was therefore the case that he had erred in his comments that these could not be relied on.
9. It was also claimed that the judge had placed weight, at the hearing, on the fact that he believed that the appellant had not stated that his wife was a Christian until the hearing when in fact that was not so – the appellant had stated at interview that his wife was a Christian. Finally, it was argued that the judge was wrong to state that any arrest warrant had been issued legitimately when the reality was that the appellant has claimed that the arrest warrants had been politically motivated.
10. Mr Nath accepted that there were material errors of law in the determination of the judge. He was correct to do so. I find that there are material errors of law and I set aside the decision. It is clear that in paragraph 42 the judge was wrong when he clearly mixed up the translations of the FIRs with the original documents and that from that flows his conclusion in paragraph 44 that the appellant was relying upon uncorroborated claims when, of course, the appellant was relying on the FIRs to corroborate his claim. Moreover, the judge had not dealt with the claim by the appellant that the arrest warrants had been issued had not been issues for any other reason other than a personal vendetta against him because of his political affiliations and because he had slighted the daughter of Mr Muhammad Aslam.
11. For the above reasons I set aside the decision of the First-tier Judge. I allow the appeal to the limited extent that it is remitted to the first-tier for a hearing afresh as the requirements of the Senior President's Practice Statement paragraph 7.2(a) are met.
12. I would add that this determination of this appeal, which was dealt with in the fast track, does not deal with any clarity with the issues raised by the respondent in the letter of refusal and that these will need to be considered in some detail at the resumed hearing.

### **Decision**

The determination is set aside and the appeal is allowed to the limited extent that it is remitted to the First-tier for a hearing afresh.

### **Directions**

The appeal will proceed to a hearing afresh at Taylor House on 12 March 2014. No interpreter is required.

Signed

Date

Upper Tribunal Judge McGeachy