



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12285/2018

THE IMMIGRATION ACTS

Heard at Field House
On 12 August 2019

Decision & Reasons Promulgated
On 20 August 2019

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

FA
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Shahzad, counsel instructed by Selva & Co Solicitors

For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge Owens, promulgated on 26 March 2019. Permission to appeal was granted by Deputy Upper Tribunal Judge Davey on 25 June 2019.

Anonymity

2. Such a direction has been made previously and as this is a protection matter, is repeated below.

Background

3. The appellant arrived in the United Kingdom on 28 March 2013, having been granted leave to enter as a visitor. He overstayed after his leave expired on 21 September 2013. The appellant was encountered working without permission on 28 January 2016 and shortly thereafter applied for asylum.
4. The appellant's asylum claim was based on the appellant's fear that his late wife's parents would kill him because he had eloped with her. The appellant's claimed circumstances and subjective fear was rejected owing to inconsistencies and because he had provided a false First Information Report (FIR) to the Home Office.

The hearing before the First-tier Tribunal

5. The appellant was the sole witness and he relied on a substantial quantity of supporting documents. The judge did not accept that the medical evidence supported the appellant's claim of past trauma in Pakistan. Nor did the judge accept the credibility of the appellant's claim that his wife, child and father had been killed by his in-laws or that the documentary evidence was reliable.

The grounds of appeal

6. The grounds of appeal argued that the judge made a series of factual errors. Permission to appeal was granted on this basis with the proviso that "materiality must be argued to establish an arguable error of law which is material to the decision upon credibility and real risks."
7. The respondent's Rule 24 response, received on 8 August 2019, indicated that the appeal was opposed and that the First-tier Tribunal Judge directed himself appropriately.

The hearing

8. Mr Shahzad highlighted a series what he argued were factual errors made by the judge. Firstly, he drew my attention to [65] where he stated the judge erred in finding that the appellant commenced proceedings, whereas the proceedings were issued by the state following the complaint started by the father of the appellant's wife. At this point I informed Mr Shahzad that the judge was clearly referring to the Court of Sessions proceedings which were started on his behalf. He made no response.
9. Secondly, at [66], Mr Shahzad contended that the judge stated that there was no verification of the court documents or detailed evidence regarding the lawyer. He argued that this was not the case and pointed to several instances of court documents being, ostensibly, stamped by court officials.

10. Regarding the evidence of the reliability of the lawyer's letters, Mr Shahzad asked me to note that the lawyer's letter at p106 of the appellant's bundle gave a licence number and mentioned that the author was a member of Lahore High Court Bar Association. In addition, the lawyer's details appeared on documents which had been stamped by the District & Session Judge in Lahore (at page 114 of the appellant's bundle).
11. Thirdly, Mr Shahzad contended that at [68] the judge was wrong to state that the appellant appeared to have little knowledge of what happened to the bail bond equivalent to approximately £15,000. Mr Shahzad boldly submitted that the judge had wrongly recorded this evidence. At this juncture, I informed Mr Shahzad (who appeared before the First-tier Tribunal in this case) that if he wished to give evidence as to what the appellant's testimony was he ought to have done so in a witness statement and at the same time separate counsel ought to have been instructed, *HA (Conduct of hearing: evidence required) Somalia* [2009] UKAIT 00018 applied.
12. Fourthly, Mr Shahzad expressed disagreement with the judge's finding at [69] that it was not credible that he could leave the country if he was wanted for murder. Mr Shahzad submitted that the appellant claimed to have travelled to the UK on 8 March 2013 whereas the first warrant for arrest was issued afterwards, in 2017. Therefore, he was able to travel on his passport despite the murder proceedings. Mr Shahzad referred to the grant of bail, emphasising that there were no restrictions on the appellant leaving Pakistan.
13. Fifthly, Mr Shahzad argued that the judge was wrong to state at [70] that the appellant ought to have known if there were extradition proceedings. In any event, the authorities of Pakistan were not aware that the appellant was in the United Kingdom, as evidenced by the service of arrest warrants at his address in Pakistan.
14. In closing, Mr Shahzad described the appellant's account as plausible and consistent.
15. For the respondent, Mr Melvin relied on the Rule 24 response. He argued that the judge considered the many court documents at [73-74] and placed no weight on them given the appellant's deception and the ease with which forged documents could be obtained. Mr Melvin argued that the judge considered all the relevant evidence going to core of the claim which was that the appellant was accused by wife's family of murdering her. He argued that the judge was entitled to find that the ability of the appellant and his wife to live safely in Karachi, have a child and run a business without problems for four years was inconsistent with her family wanting to kill the appellant. Mr Melvin asked me to note the judge's findings relating to there being no mention of the death of the appellant's wife when the appellant applied for a visa as well the implausible nature of his failure to make enquiries regarding his child, despite claiming to be in regular contact with lawyers in Pakistan [61-62]. He argued that the judge had agreed that the FIR was not a genuine document and rejected the appellant's explanation. Mr Melvin agreed that some of the evidence was confusing but argued that the points raised regarding the bail bond and extradition were not

material to the core of the claim, which was that the appellant's spouse had been kidnapped and murdered.

16. Mr Shahzad attempted to raise a new matter in response and otherwise had nothing to add.
17. At the end of the hearing, I decided that the First-tier Tribunal made no material error of law and upheld the decision. My reasons are set out below.

Decision on error of law

18. Notwithstanding Mr Melvin's acceptance that some of the evidence was confusing, I find that the First-tier Tribunal Judge made no factual errors in reaching his findings.
19. It was argued that the judge was wrong to state that there was no independent verification of the court documents [66]. Indeed, the appellant's current representatives had obtained an adjournment at an earlier stage to verify those documents. While a letter from Mr Amir Butt had been obtained in support of the claim that the court documents were reliable, the judge rejected this for sustainable reasons including that the letter was not dated and that the alleged verification resembled the rest of the letters produced. That letter does not amount to independent verification and Mr Shahzad pointed me to no other document in the bundle.
20. The judge was entitled to conclude that there was insufficient evidence that Mr Amir Butt was an advocate of the High Court. The judge rightly notes that his letter lacks a "fax number, email or website, a copy of his licence to practice or confirmation that he is regulated by an appropriate body in Pakistan." The inclusion of an alleged licence number and an assertion that he is a member of the Lahore High Court Bar Association does not amount to reliable evidence that the author of the letter is who he claims to be.
21. Mr Shahzad made much of the judge's findings at [65] which he appears to have misunderstood. The judge stated, "I agree... that it is inherently implausible that the appellant would have been able to start proceedings at the Court of Session in Lahore relating to a FIR that did not exist or was falsified..." Mr Shahzad's argument was that the judge did not realise that the appellant did not start the proceedings but that these were commenced by the state. The copy of the Court of Sessions petition shows that the appellant's mother is the petitioner and that she is responding to the claims made in FIR 04/2013. The aforementioned FIR was verified by the respondent and found to be a false document and that conclusion was upheld by the judge. There is no challenge to that finding in the proceedings before the Upper Tribunal. In these circumstances, the judge made no error and had little option but to reject the reliability of the Court of Session petition for the reasons given.
22. Mr Shahzad informed me that the judge was wrong to say that the appellant "was not able to state if or when (the bail bond) was forfeited..." Despite representing the appellant at the hearing, he has not produced a statement or his own record of the

appellant's evidence. This issue formed part of the grounds of appeal which were attached to the application for permission to appeal to the First-tier Tribunal dated 9 April 2019. Therefore, Mr Shahzad, who drafted those grounds, ought to have been aware that he would be required to reinforce his arguments with evidence. There is no basis for disturbing the judge's conclusions regarding this matter, which are supported with sound reasoning.

23. Lastly, Mr Shahzad claimed that the judge misdirected himself in finding that the appellant ought to have known whether an extradition order was made. This ground does not address the reasons the judge gave for this finding, those being that it was inconsistent for the appellant to claim that he did not know about the extradition when he claimed knowledge of being wanted on murder charges. Furthermore, the judge notes that the appellant was asked about this matter in his asylum interview three years earlier and also claimed to have a lawyer representing him in Pakistan and therefore if his account were true, he ought to have known whether an extradition order was made.
24. There are no errors of law in the judge's decision and it is upheld in its entirety.

Conclusions

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

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

Date 13 August 2019

Upper Tribunal Judge Kamara