



IAC-FH-NL-V1

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

Appeal Number: AA/03146/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 27<sup>th</sup> October, 2014**

**Decision and Directions  
Promulgated On 19<sup>th</sup>  
November, 2014**

**Dictated 27<sup>th</sup> October, 2014  
Signed 17<sup>th</sup> November, 2014**

**Before**

**Upper Tribunal Judge Chalkley**

**Between**

**F N  
ANONYMITY DIRECTION MADE**

**and**

Appellant

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

Respondent

**Representation:**

*For the Appellant: Mr I Hussain, a Solicitor with Lei Dat & Baig, Solicitors, Liverpool*

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

**DECISION AND DIRECTIONS**

1. The appellant is a citizen of Pakistan who was born on 10<sup>th</sup> August, 1977 and who arrived in the United Kingdom on 24<sup>th</sup> February, 2011 and was granted leave on the basis of a student visa. On 26<sup>th</sup> July, 2011 his wife and daughter arrived in the United Kingdom.

2. The appellant appeals the decision of the Secretary of State for the Home Department taken on 28<sup>th</sup> April, 2014, to remove the appellant as a person subject to administrative removal under Section 10 of the Immigration and Asylum Act 1999, having refused to grant an asylum claim.
3. According to the appellant's witness statement which he signed and which is dated 12 June, 2014, whilst living in Pakistan, the appellant was well-known for sports. He played cricket for Loudhyana Gymkhana and played cricket in Dubai. He was also a gold medallist boxer. In his written statement he refers to his asylum interview conducted with him by the Home Office. His answer to question 142 is as follows:-

"I am a well-known sportsman in Pakistan, at the moment the Pakistan cricket team some of the members that are well-known, there are some players that come to the UK to play in the cricket league, I am well-known to them. Gibran Khan has also played in the first class cricket team, he also knows the players I do. Recently there was a champion trophy cricket tournament in the UK. Naser Jamshed played in the team. He is a very good friend of mine. Him and Gibran Khan played for the same team. It was a Pakistani's customs team. There are more examples where they know each other."

The appellant also said that he is a national gold medallist at boxing.

4. The basis for the appellant's claim to asylum is set out at paragraph 5 of the Secretary of State's Reasons for Refusal Letter of 25<sup>th</sup> April, 2014. This is as follows:-

"5. You claim that:

- (a) whilst living in Pakistan you were a well-known sportsman, playing cricket for Loudhyana Gymkhana and being a gold medallist boxer. You have also played cricket in Dubai.
- (b) You came to the UK on 24<sup>th</sup> February, 2011 using a student visa arriving at Heathrow Airport.
- (c) You did some work for 10-11 months for a business man called Asif Rehman. You started working in his restaurant then did odd jobs for him. You also worked as a chauffeur when you obtained your licence. You stopped working for him as he lied about getting you a work permit.
- (d) You were then referred to Ricky, real name Amir Shafiq, who said he could get you a work permit and started working for KAKA Cash and Carry in May or June 2013. You were hired as a driver but you were told you would be a floor manager on your first day.
- (e) They told you to treat the staff like animals and they would double orders but take cash in hand for half the order to avoid VAT charges. When you questioned their methods they would get angry with you.

- (f) When you were driving you would always be with Zahid Khan Doltana known as Doltana. All dealings were done through him. You would pick up wine and beer from all over the country.
- (g) On 8 December you told Doltana that you would inform the police or tax people about the VAT avoidance and he threatened you and informed you that in the past they have cut the ears, tongue and hands off from people who spoke against them. He also threatened your wife and daughter.
- (h) You became fearful and fled after stopping at a service station as Doltana left for something to eat. You parked the van and got a taxi to Liverpool and you told your wife to join you with your daughter.
- (i) You then went to London and stayed with a friend for 2-3 days and then moved to a house in Wakefield Street and you were there until September 2013.
- (j) The police arrested you and also took your wife. Your daughter stayed with someone from facebook. You were accused of stealing from the company. You do not know what kind of evidence they used. Doltana and another employee, Jibrán, did not appear to give evidence against you and the court ruled in your favour and Jibrán was arrested for the VAT fraud following your evidence.
- (k) Two people went to your father and threatened to tell you to keep your mouth shut. They also shot at your father. This was reported to the police but they have taken little action. He was kidnapped on about 7<sup>th</sup> or 8<sup>th</sup> August. No one saw what happened to him.
- (l) The police have given you a box which would get them to your house within 45 seconds if you feel threatened or if someone suspicious was around your home but you have not used it as you moved to a shelter."

5. The appellant appealed the decision of the Secretary of State and his appeal was heard by First-tier Tribunal Judge De Haney sitting in Manchester on 30<sup>th</sup> July, 2014. Having heard oral evidence from the appellant the First-tier Tribunal Judge did not believe the whole of it. He noted that the appellant entered the United Kingdom on the basis of a student visa and that the appellant claimed to have attended college for "the first semester in Birmingham". The judge noted that the appellant had provided no evidence that he had actually attended college, but it was quite clear that at the end of the first semester the appellant had no intention of continuing studies. Instead, the appellant arranged for his wife and child to come to the United Kingdom and the appellant worked in contravention of his original visa. The appellant claimed asylum on 7<sup>th</sup> September, 2013. The judge noted that the appellant not only knew that he was working in the United Kingdom illegally, but he also knew much of

the time that his employer was engaged in illegal activities. The judge found that this appeared to be something the appellant was quite prepared to be involved in as long as it suited his interests.

6. The judge was not prepared to accept that the appellant is so famous in Pakistan that he would be recognised wherever he goes. He was prepared to accept that the appellant may well have had some minor and peripheral involvement with members of the National Pakistan cricket team but, even if the appellant was such a friend, the judge found that it was highly implausible that the appellant would be known to the wider population in any way. The judge noted that no evidence had been placed before him to show that there were any criminal investigations in respect of the appellant's former employers or indeed that there were any ongoing tax fraud investigation. In relation to documentation provided by the appellant the judge noted the shortcomings in the documentation as pointed out by the Presenting Officer and, having applied *Tanveer Ahmed v Secretary of State for the Home Department* [2002] UKIAT 00439 found that they could not be relied upon.
7. The judge noted that the appellant claimed that he had been targeted by perpetrators of a major fraud, but was unable to explain how these perpetrators had not been able to reach the appellant in the United Kingdom. The appellant claimed that he was under police protection, but had shown no evidence of this at all. He himself had been on weekly reporting whilst on bail for his own criminal activities. The judge did not believe the appellant's account and did not accept that the appellant would be at risk if he were to be returned to Pakistan. He considered the matter in the alternative and found that protection would be available to the appellant were he to return to Pakistan. He did not accept that even if the perpetrators of the fraud did know the governor of Punjab (the former member of the Scottish Assembly, Mr Choudrey Mohamed Sarwar) that he would be prepared on their behalf to take action against the appellant. The judge found that the appellant was not credible in the core of his account. He did not accept that the appellant would be targeted or had been targeted in the United Kingdom and did not accept that the appellant would be at any risk should he return to Pakistan. In the alternative he found that the appellant would be able to internally relocate in any event.
8. Designated First-tier Tribunal Judge J M Lewis granted permission suggesting that:

“It is arguable that based upon errors of fact and insufficient regard to background evidence the judge reached conclusions insufficiently grounded in the evidence on risk on return, internal relocation and sufficiency of protection.”
9. At the hearing before me Mr Hussain referred to a letter he had written to the Tribunal dated 13<sup>th</sup> October in which he said he wished to raise an additional ground claiming a further error of law on the part of the First-tier Tribunal Judge. The letter went on to suggest that at paragraph 39 of the determination the judge stated that it was clear that there was some

ongoing fraud investigation but that did not necessarily mean criminal proceedings would be brought against the appellant's former employers. The judge referred to the fact that the revenue may make investigations but the vast majority are concluded by way of tax penalties and settlements and suggested that the judge had erred by failing to give adequate reasons for this conclusion.

10. Mr Hussain asked me to consider granting permission in respect of that additional ground. I told him that I would refuse to grant permission. Having read the letter of 13<sup>th</sup> October, 2014 it was clear to me that the application was made considerably out of time and there was no explanation offered for that late application. The appellant's previous application for permission to appeal was dated 22<sup>nd</sup> August, 2014. This application was more than a month out of time.
11. I told him that even if I had granted an extension of time I would still have refused permission because it is clear that the challenge fails to identify any error of law on the part of the judge and is nothing more than a disagreement with the judge's decision. It is, as the judge pointed out, a fact that a huge number of revenue and customs investigations are concluded without criminal prosecutions.
12. I asked him if he would care to direct me to where in the determination he claimed that the judge had erred and he referred me first to paragraph 40 of the determination. Paragraph 40 of the determination says this:-

“There has been no evidence placed before me to show that there are criminal investigations in respect of his former employers or indeed that there are ongoing tax fraud investigations.”

13. Mr Hussain said that that was an error because at page 14 of the appellant's bundle was a letter from Genga & Company Solicitors Limited who had appeared on behalf of the appellant in connection with his criminal matters which referred to his attendance at Stafford Crown Court. I pointed out to Mr Hussain that the letter was dated 27<sup>th</sup> June, 2013 and related to the appellant. I asked him if there was any evidence to show that there were criminal investigations in respect of the appellant's former employers or evidence to show that there were ongoing tax fraud investigations. He then referred me to a conversation he had had with Genga & Company Limited. He told me that he had relayed the contents of that telephone conversation to the judge. He denied having given the judge evidence and agreed that there was no evidence before the judge to show that there were criminal investigations in respect of the appellant's former employers or that there were any ongoing tax fraud investigations.
14. Mr Hussain said that there was a threat to the appellant should he return to Pakistan because the judge has misunderstood the appellant's claim. At paragraph 38 the judge says that he is not prepared to accept the appellant's claims that he is so famous in Pakistan that he would be recognised wherever he goes. This, Mr Hussain suggested, demonstrates

that the judge misunderstood the evidence. It is not the appellant's case that he would be recognised because of his own sporting achievements but because of his association with current members of the Pakistan national team.

15. Quite apart from the fact that the appellant himself had claimed that he would be at risk because he was a well-known sportsman, I asked Mr Hussain if he could explain how the fact that the appellant might know some members of the Pakistan cricket team this would cause him to be at risk on his return to Pakistan. He said that were the appellant to make contact with his friends they in turn may report the matter to the perpetrators of the fraud who were also their friends. He told me that the appellant communicates with these friends by telephone at the moment. I suggested that there was no reason why he should not continue to communicate with his cricketing friends by telephone if he wanted to. If they were truly his friends they were hardly likely to give his whereabouts away to the perpetrators of the fraud, particularly if the appellant asked them not to. If they were not his friends then he would hardly need to maintain contact with them in any event. I reserved my determination.
16. At paragraph 38 Judge Deputy Judge Haney had said this:-

“I am not prepared to accept the Appellant's claims that he is so famous in Pakistan he would be recognised wherever he goes. At best the Appellant seems to have had some minor and peripheral involvement with members of the national Pakistani cricket team, though this may have only been by being a member of the under 19 squad. No doubt during this time he would have mixed with people who went on to be famous cricketers and no doubt he would take any opportunity that he has had, around the world, to identify himself to them and gain some kind of kudos by representing himself as a friend of theirs. Even if he were such a friend I find it highly implausible that he would be known to the wider population in any kind of way; it is a well-known fact that famous people are always surrounded by a number of hangers on or people trying to closely identify with them or say they have known them at some time or other.”

17. I do not believe that the judge has in any way erred or misunderstood the appellant's claim. If indeed these well-known cricketers are friends of the appellant then he will know if they are also friends with the fraud perpetrators and whether or not he can trust them. It appears, however, from what the judge said at paragraph 38 that he believed that the appellant may have come into contact with some members of the National Pakistan cricket team by himself having been a member of the under 19 squad but what it suggests that if they are truly his friends then he will know whether they represent a risk to him or not. If they are not truly his friends, but merely acquaintances, then there is no reason for him to make contact with them at all. In any event, this ignores the finding of the judge who did not find the core of the appellant's account credible. He did not accept that the appellant would be targeted or had been targeted by anybody in the United Kingdom and did not accept that the appellant would be at any risk should he be returned.
18. Mr Hussain then told me that the appellant was likely to be at risk from the governor of the Pakistan province. He accepted that it was not suggested

at all that Mr Sarwar himself was engaged in any criminal activity or would have any associations with anyone who was a known criminal. However, Mr Sarwar's own son had been convicted in connection with money laundering and Mr Sarwar's former business and the business that the appellant was employed with did have dealings together and Mr Sarwar did know the appellant's former boss. Mr Hussain agreed that he could not prove that Mr Sarwar was the owner of any business connected to Kaka Cash and Carry, nor could he show that any business owned by Mr Sarwar had any links to Kaka Cash and Carry. Mr Hussain agreed with me that even if Mr Sarwar had previously known one of the former directors or owners of Kaka Cash and Carry he may very well have severed all links with this individual, having learnt that he was the perpetrator of a major VAT fraud. In any event, given the overall finding of the judge that the appellant was simply not credible as to the core of his claim it followed that there could be no threat to the appellant whether from the governor of Punjab province or otherwise.

19. I was concerned that Mr Hussain had not addressed me on every issue raised in his grounds of appeal, but he told me that he had nothing further to add.
20. I have concluded that the making of the decision by First-tier Tribunal Judge De Haney did not involve the making of any error on a point of law. I uphold the judge's decision which shall stand. The appellant's appeal is dismissed.

**Richard Chalkley**

Upper Tribunal Judge Chalkley

**17<sup>th</sup> November, 2014**