



**Upper Tribunal**

**(Immigration and Asylum Chamber)**

**Appeal Number: AA/10740/2015**

**THE IMMIGRATION ACTS**

**Heard at Manchester Piccadilly**

**On 28 January 2018**

**Decision & Reasons Promulgated**

**On 30 January 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BIRRELL**

**Between**

**FOZIA AMIR**

**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr P Thornhill of Thornhills Solicitors

For the Respondent: Mr A McVitie Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.

2. The Appellant was born on 3 February 1978 and is a national of Pakistan.
3. In order to avoid confusion, the parties are referred to as they were in the First-tier Tribunal.
4. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge M Davies promulgated on 1 November 2017 which dismissed the Appellant's appeal against the decision of the Respondent dated 23 July 2015 to refuse the Appellants application for refugee status.
5. Grounds of appeal were lodged arguing that the Judges reasons for adverse credibility findings were inadequately reasoned.
6. On 6 December 2017 First-tier Tribunal Judge Bird gave permission to appeal.
7. At the hearing I heard submissions from Mr Thornhill on behalf of the Appellant that :
  - (a) The findings at paragraphs 84-86 that led the Judge to find her credibility irreparably damaged were: the Appellants immigration history, the fact that the Appellant had made an application for entry clearance in Abu Dhabi and that the substantial funds that the Appellant evidenced in her visa application was inconsistent with her estrangement from her family.
  - (b) In relation to her visa application this was not made in Abu Dhabi. Mr McVitie accepted that the *decision* was made there not the *application*.
  - (c) The only evidence in the visa application was that the Appellant had funds, there was no evidence as to the source of the funds and there was no evidential basis for the conclusion he reached.. The mater was not raised at the hearing.
  - (d) The Judges consideration of the emails was flawed in that he simply rejected them without any adequate explanation.
  - (e) It is accepted that the Judge looked at the Appellants case in the alternative but the reasons are so sparse that it is inadequate given that if accepted her account was that they had tried living elsewhere in Pakistan but had been found.

8. On behalf of the Respondent Mr McVitie submitted that:
- (a) The Appellants account that her and her husband had been living in fear and in hiding since 2000. Her possession of £20,000 in funds was inconsistent with that claim.
  - (b) The Judge gave all parties the opportunity to address the issues that arose out of the production of the Visa application.
  - (c) In relation to the Judges consideration of the emails these cannot be artificially separated from the other findings.
  - (d) In relation to internal relocation he accepted that this was not very well reasoned but if the Appellants account was not credible this made no material difference

### **Finding on Material Error**

9. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.
10. There is no challenge to the Judges findings at paragraph 85 that he found it of 'particular significance' that there was a 4 year delay in claiming asylum in that she arrived in the UK on 24 August 2011 claiming to be in fear of her family and in laws and yet did not make a claim for asylum until 22 January 2015. This entitled the Judge to find that this reflected on the Appellants credibility.
11. There is no challenge to the finding made by the Judge at paragraph 88 that her claim that her father was strict was inconsistent with her history in that she had studied at University and worked as a teacher.
12. In relation to the adverse conclusions the Judge drew from the information contained within the visa application I am satisfied that the Judge gave adequate reasons for his conclusion and the Appellant had the opportunity to address this evidence but chose not to do so. The Judge sets out in detail at paragraphs 1-8 what happened after the hearing on 2 August 2017. Having reserved his decision and considered the evidence, issues arose which the Judge felt the parties should have the opportunity to address. There was therefore a hearing on 31 August 2017 where there was no HOPO but Mr Thornhill was present. It was

agreed that the Judge would make directions 'relating to the evidence produced when application to enter the UK as a student.' Mr Thornhill was told that he would have the opportunity to consider this evidence and could have a further hearing and make submissions. On 12 September 2017 the Respondent produced a copy of the Appellants 'Application Details' (not the visa application itself) and the evidence produced in relation to it was no longer available. The notes in relation the application at page 2 stated that she produced a bank statement which showed funds of £22,936. The documents were served on the Appellants representatives. On 27 September 2017 both parties were directed that they could request a hearing 'to address issues that may arise as a result of the provision by the Respondent of a copy of the Appellants visa application.' The Judge directed that if there was no further hearing or submissions he would take into account the information contained within the visa application to satisfy the Respondent that she could satisfy the requirements of the immigration rules. In a letter dated 2 October 2017 the Appellants representative indicated that they did not require a further hearing or wish to make further representations. Therefore it is very clear that the Appellants representatives were given a number of opportunities to address the issue of the evidence she produced to show that she could meet the requirements of the Rules contained within the document produced by the Respondent and that included evidence of funding. It was open to the Judge to find as he did at paragraph 86 that that the amassing of such a significant sum of money was inconsistent with her 'living in the circumstances she claims in her evidence': this was that in essence that her and her husband had lived in hiding from when they married to when they fled from Pakistan with only her husband working and that they had moved to at least three different areas to live. It was also open to him to conclude that such funds appeared to suggest that they were not estranged from their respective families which undermined the core of their claim.

13. The Judge was clearly in error in also finding that it was of 'particular significance' that the Appellant made her student visa application at the overseas post in Abu Dhabi as this was where the decision was made not where the application was submitted. However this was only one of a number of adverse

findings made by the Judge and I am therefore satisfied that this error could not have made a material difference to the outcome.

14. Having found that the Appellant has fabricated her account it was open to him to reject the emails in relation to which Mr Thornhill had accepted in submissions there was no 'categorical proof' that they were sent by family members but they gave the impression of being genuine. Given the clearly acknowledged issues relating to provenance the Judge was entitled at paragraph 89 to assess these together with the adverse credibility findings he had made and conclude that he attached no weight to them.

15. Given that I am satisfied that the Judge gave adequate reasons for finding that he rejected the Appellants core account that her and her husband had received threats from both families as a result of which they had to flee their home area any failings in the Judges assessment of the adequacy of protection afforded by the state were not material to the outcome of the decision.

16. It is a trite observation that a judge need not address in detail every single argument advanced before him, nor consider in isolation every single piece of evidence. I was therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and sufficiently detailed and the Appellant cannot be in any doubt about why the appeal was allowed: he did not find her a credible witness as to her core account.

## **CONCLUSION**

**17. I therefore found that no errors of law have been established and that the Judge's determination should stand.**

## **DECISION**

**18. The appeal is dismissed.**

Signed

Date 28.1.2018

Deputy Upper Tribunal Judge Birrell