



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/01502/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 19 January 2018

Decision & Reasons Promulgated  
On 18 May 2018

Before

UPPER TRIBUNAL JUDGE JORDAN

Between

Shehzadi

Appellant

and

The Secretary Of State For The Home Department

Respondent

**Representation:**

For the appellant: Mr J. Gajjar of Counsel, instructed by Malik & Malik, Solicitors

For the respondent: Mr T. Melvin, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan who appeals against the determination of First-tier Tribunal Judge James whose determination was promulgated on 20 June 2017 dismissing the appellant's appeal against the decision of the Secretary of State made on 27 January 2017 to refuse her protection claim as well as a claim that removal would violate her human rights.
2. This is a case where the First-tier Tribunal Judge gave no less than 22 reasons for finding that the appellant was not credible. These are found as unnumbered

bullet points in paragraph 28 of the determination. (For ease of reference I have numbered those points 1 to 22.) It is inherent in a decision that the more reasons the Judge provides for finding that the appellant's case is flawed and her claim is not credible, the more secure her ultimate decision will be but also the greater the risk that some of the reasoning will be weaker or defective, giving rise to an appeal to the Upper Tribunal. This is just such a case.

3. The appellant had claimed that she was the victim of domestic violence. However, the claim advanced before the First-tier Tribunal was that she was at risk on return. The substance of this claim was the risk of harm by reason of the appellant's family's opposition to her marriage. It was material to this issue to assess the extent that family members participated in the wedding in Pakistan as well as the wedding celebration that took place in the United Kingdom in order to assess the credibility of the claim that her family was opposed to the marriage.
4. It is common ground that the First-tier Tribunal Judge made these three errors:

(i) Bullet point 10

The First-tier Tribunal Judge said:

Although the appellant had been advised to produce original letters she sought to rely on for her asylum appeal hearing, again she failed to attend with her original letters claimed to be from her mother and sister in Pakistan. I thus give little or no weight to the photocopy faxed documents of letters she seeks to rely on.

We know this to be incorrect. The originals were sent to the Home Office in whose hands they remained. None was a faxed document.

The subsidiary point, made at bullet point 9, is however, a sustainable one. The envelopes produced by the appellant, said to contain letters the appellant relied upon, were not reliable evidence as to the date of the letters or the dates the letters were sent. The Judge found the appellant had told her an envelope dated 14 February 2017 was the envelope in which she had been sent the decree of divorce. However, the Judge pointed out this was an envelope from the Tribunal clearly stamped to that effect. In bullet point 11 the Judge reasonably concluded the letters did not marry up with the envelopes in which the appellant claimed they were sent.

(ii) Bullet points 20 and 21

The appellant had described how her uncle stood as *wali* (which I understand to mean something like guardian or kinsman) in the absence of her father who was in the United Kingdom. The Judge reasonably concluded that this meant that not all her relatives were against the marriage and, in particular, her uncle was a participant. However, in the following bullet point (21), the Judge refers to the fact that the marriage certificate was signed by her father, Mehreban Hussain, undermining her claim that he was not present whereas the signature 'M. Hossain' was the signature of the attorney.

(iii) Bullet point 21 (second point)

The marriage certificate describes the appellant's husband as divorced but the First-tier Tribunal Judge recorded that the appellant claimed in her interview that she did not become aware of this until some 18 months after the marriage. (That was the date on which the appellant joined her husband.) In fact, in interview, the appellant said in answer to the question 'When did they tell you?'

" They when I moved in after marriage they would talk and say but before marriage they had mentioned but he was divorced."

Clearly the question was designed to enquire as at what time did they *first* tell the appellant about the divorce. Although this answer is somewhat equivocal, it is apparent that the appellant answered that this was first mentioned before the divorce.

5. The legal issue before me is centred upon the decision of the Court of Appeal in *Haile* [2001] EWCA Civ 663. In that case the adjudicator had given six reasons for disbelieving the appellant. One of his reasons was seriously flawed. Simon Brown LJ said in paragraph 25:

"This was really a most regrettable mistake for the special adjudicator to have made. True, it produced only one of six reasons for disbelieving the appellant, but it must inevitably lead to a sense of keen injustice in the appellant and it cannot confidently be said to have made no ultimate difference to the result."

6. In reliance upon the principle, Mr Gajjar submitted that the First-tier Tribunal Judge's errors were such that the Tribunal could not confidently conclude that they would have had made no ultimate difference to the result. Whilst I accept that the Judge was wrong in the 3 instances I have identified, I am not persuaded the Judge's other findings were wrong. The issue is whether this error would have made a difference to the First-tier Tribunal Judge's ultimate conclusion.
7. In *HK v Secretary of State for the Home Department* [2006] EWCA Civ 1037, Neuberger LJ (as he then was) said

"In this case, I am satisfied that one cannot be confident that the Tribunal would have rejected HK's case on the basis of their reasons which have survived scrutiny in this court. On the face of it, that would seem to be pretty self-evident from the discussion in paragraphs 33 to 43 above. Of the eight reasons, not much survives. Of course, as Jacob LJ said in argument, the issue cannot be resolved simply by asking how many of the Tribunal's reasons survive. The issue has to be determined partly by reference to the probative value of those reasons, both in absolute terms and by comparison with the rejected reasons, and objectively, but also subjectively, in the sense of seeing what weight the tribunal gave to the various reasons it gave. The issue also has to be determined bearing in mind the overall picture including reasons which a tribunal would have had, but which were not expressed. An example would be the impression made by a witness (a factor which is not, in my view, high in the hierarchy of cogency, especially in an asylum case

which will normally involve an appellant from a very different cultural background from that of the Tribunal)."

8. In both these cases, the Court of Appeal used the expression 'cannot be confident' about the outcome as being the approach the Court of Appeal when considering the impact of a single error (or several errors) in relation to the remaining unchallenged reasons. I would not construe this as meaning that one error will inevitably vitiate the First-tier Tribunal Judge's decision but an acknowledgment that it might do so. These two decisions were examples of the principle in action.
9. That cannot amount to a rule of law that an error or errors will always vitiate the determination. It will depend upon the nature of the error in the context of the Judge's reasoning as a whole. It is easy to think of examples at each end of the spectrum. A mistake as to the date when a claimant was finger-printed in another European country which resulted in a decisive rejection of the claim because the Judge thought he was not present in his country of origin at the date he claimed he was persecuted is likely, perhaps certainly, to impact upon the other reasons. Conversely, a 'simple' mistake as to the date when the claimant entered the United Kingdom may well be immaterial or, at the least, have only a marginal impact on other, solid, reasons why the claim was disbelieved. It is not a question of whether it is *possible* that the error would have made a difference; rather, it is a question of whether the reviewing Tribunal is satisfied ('confident') that it would not have made a difference.
10. None of the remaining 19 reasons given by the First-tier Tribunal Judge in her determination were challenged by the appellant in her grounds of appeal. Were it to have been said that they, too, were wrong, separate challenges would have had to have been made in relation to each of them as the appellant had done in relation to the three matters I have already identified in paragraph 3 as containing errors.
11. Bullet point 1 reasons that, although she claimed to be a victim of domestic violence, when she filed the crime report to the police on 18 August 2015, she attended with her aunt and uncle who confirmed that her family fully supported her and were content to offer her a job in the United Kingdom. This undermined her claim that her family were opposed to the match.
12. Bullet point 2 refers to the crime report stating that she lived with her own family in Pakistan for 18 months until she joined her husband in the United Kingdom. She made no claim to have experienced difficulties during this extended period after the marriage. This, too, undermined her claim that her family were opposed to the match.
13. Bullet point 3 refers to her being in breach of the condition attached to the grant of entry clearance that, implicitly at least, she should live with her husband. Whilst this apparently goes to her disregarding the conditions of her grant of entry clearance, I would not regard it as greatly advancing the respondent's challenge to the claim save insofar as it undermines her general credibility.

14. Bullet point 4 is a more substantial challenge to her credibility. Despite telling the police in 2015 that she had never lived with her husband, the appellant denied this in oral evidence claiming she only moved out of the home at the beginning of 2017.
15. Bullet point 5 refers to the fact that her marriage celebration in the United Kingdom was attended by over 200 guests. In my judgment this was clearly inconsistent with her claim that her family disapproved of the marriage, notwithstanding her claim that her father and brother did not attend. Mr Gajjar submitted that this did not mean that her entire family approved of the marriage. However, the simple logistics of this appellant arranging such a large scale event flies in the face of the opposition she claims her family felt towards the match.
16. Bullet point 6 refers to her claim to have been subjected to domestic violence. It is plain that the appellant and her mother-in-law did not get on well with each other. The Judge assessed the strength of the appellant's claim to be the victim of domestic violence. The appellant claimed that her mother-in-law pulled her hair and complained that she should wear a veil but her husband supported her against her mother-in-law whom the appellant stated had threatened her with a wooden spoon. It was plainly open to the First-tier Tribunal Judge to reject this evidence as amounting to a serious threat. This was undoubtedly a finding of fact that was sustainable.
17. Bullet point 7 is based on her claim to be in fear of her husband and mother-in-law yet the appellant also claimed that she visited them almost every day. This was at the very least equivocal and resulted in the Judge reasonably concluding that the appellant tended to exaggerate the sources of her alleged fears. Her claim to be the victim of domestic violence was undermined by the advice given by the police to her that she should 'keep way' from her husband and mother-in-law, suggesting that she was harassing *them*, rather than that they were subjecting *her* to domestic violence. The appellant herself declined a domestic violence referral.
18. Bullet point 8, I think, makes the point that the appellant's position had resolved itself when she was granted discretionary leave until 26 November 2015. I was told that this was the conventional response by the Home Office to a person whose claim to be the victim of domestic violence had not then been properly established. A further 3 months leave is provided to enable the claimant to substantiate the claim to the satisfaction of the Home Office. The appellant did not pursue the domestic violence claim; the Judge reasonably concluding she would have done so had she the evidence.
19. Bullet point 9 is referred to in my assessment of the error identified in Bullet point 10. Bullet point 11 is the Judge's finding of fact that the envelopes said to contain material documents could not be married up with the documents said to have been posted in them.

20. Bullet point 12 (see question 10 and the answer at C2) recites the address given by the appellant as to where she lived with her mother and sister after her marriage and for the next 18 months until she entered the United Kingdom. This was the same address from which the appellant claimed she was sent threatening letters. The First-tier Tribunal Judge was undoubtedly able to rely on this as undermining her claim that these letters contained genuine threats.
21. Bullet point 13 refers to the appellant's claim that these threatening letters were sent to her home address after her marriage. However, this claim was obviously inaccurate since the envelopes pre-dated her marriage and her entry into the United Kingdom. As the appellant lived with her aunt and uncle, it was open to the First-tier Tribunal Judge to conclude that the envelopes probably contained routine correspondence which the appellant dishonestly used to support her claim. The Judge uses the expression that this behaviour was 'of concern' to her but this expression is a thinly disguised way of saying the appellant was not telling the truth.
22. Bullet point 14 makes a further adverse credibility finding. In order to substantiate the claim that her father and brother had nothing to do with her marriage and did not participate in its preparation, the appellant told the Judge that it was all arranged in the space of 'a few days' when her father and brother were away from the house. The First-tier Tribunal Judge flatly rejected the claim that the arrangements were made quickly and in the clandestine manner suggested by the appellant. He simply did not believe it. It was a matter for him to determine whether such a claim was likely. He did not. That conclusion was properly open to him.
23. Bullet point 15 draws attention to a flat contradiction in the appellant's claims as to who it was who wrote the threatening letters. The contradiction itself merited the Judge concluding the claim was untrue; the fact that the writers of the threatening letters attended the wedding made it doubly unlikely to be true as the Judge pointed out. It was a sustainable point properly made.
24. Bullet point 16 refers to another sustainable adverse credibility finding. The contents of the threatening letters belied the fact that the mother, the maternal side of the family as well as other male elders all attended the wedding, a matter which the First-tier Tribunal Judge did not find credible if, as claimed, the family were as opposed to the marriage as the appellant claimed.
25. Bullet point 17 is yet another telling and compelling adverse credibility finding. Despite the claim that father and brother were so implacably opposed to the match, neither of them wrote a threatening letter to that effect. The Judge rejected the appellant's explanation that this was because they were illiterate because, as the Judge reasonably concluded, neither did they make any verbal threats by telephone. This was all the more striking since there had been a substantial passage of time in which they had had the opportunity to do so.

26. As if to counter this difficulty, the appellant explained that, although she returned to her parents' home, (unusual in itself since the norm would have been to have resided with her husband) she left after a day. However she claimed she went to stay with her grandmother who lived nearby in a location obviously known to her parents. Notwithstanding this, her family took no further steps against her, a claim the First-tier Tribunal Judge rejected as explained in Bullet point 18.
27. Bullet point 19 makes the sustainable point that the appellant took no steps to seek the protection of the authorities if she had been attacked by her father and brother. Regardless of the strength of this point, it was open to the Judge to place it into the balance.
28. Bullet points 20 and 21 are two of the challenged reasons.
29. Bullet point 22 makes the general point that the appellant had given contradictory evidence as to where she lived and with whom after her marriage and before she came to the United Kingdom.
30. I have felt it necessary to summarise the findings of fact made by the First-tier Tribunal Judge because I am required to balance the unchallenged and plainly sustainable findings made (some no doubt carrying greater weight than others, as is inevitable) with the errors that have been identified. I am satisfied so that I am sure that the reasons advanced by the Judge for rejecting the appellant's claim to have roused the animosity of her family by marrying against their wishes far outweigh the challenge that arises from the three errors which are the appellant's focus in this appeal. It is not, of course, a quantitative assessment: 18 against 3. It is a qualitative assessment based on the strength of the First-tier Tribunal Judge's underlying reasoning set against the accepted errors. Having assessed the Judge's reasons, I am both satisfied and confident that those errors could make no difference to the ultimate decision.

## DECISION

The Judge made no error on a point of law and the original determination of the appeal shall stand.

ANDREW JORDAN  
JUDGE OF THE UPPER TRIBUNAL  
22 January 2018