



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: PA/06341/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 28 November 2018**

**Decision & Reasons
Promulgated
On 3 December 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE JORDAN

Between

**RAJA AFZAAL
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr D. Clarke, Home Office Presenting Officer

DECISION AND REASONS

1. This appeal last came before me on 2 October 2018. At the hearing, neither the appellant nor his representative appeared. As far as I was aware, the appellant was still acting through his solicitors, Staines & Campbell of Ealing. However, on 28 September 2018 a letter was drafted by them indicating that they were without instructions and asked to be removed from the court record. That letter was not received by the Tribunal until 5 October 2018, three days after the hearing before me on

2 October. The directions that I made on 2 October 2018 required the appellant's solicitors to explain why neither they nor the appellant were present at the hearing. Having now seen their letter of 28 September 2018, it is apparent why they did not attend then or today.

2. The appellant was originally served at a former address but shortly before their application to be removed from the file, his former solicitors notified the Tribunal of what they believed was his last address. The appellant was served at that address, namely [~], with a notice of hearing returnable today, 28 November 2018. I am satisfied that he was properly served. He did not attend.
3. The appellant is a citizen of Pakistan who was born on 20 July 1983. He has a lamentable immigration history. In particular, he applied on 22 May 2014 for a residence card in accordance with the EEA Regulations. He accepted that this application was fraudulent. His asylum claim was only made as a last-ditch attempt to remain in the United Kingdom on the day he was served with an enforcement notice in 2016.
4. I am satisfied that the judge properly applied the guidance provided by *HJ (Iran) and HT (Cameroon) v. the Secretary of State for the Home Department* [2010] UKSC 31. The judge comprehensively disbelieved the evidence of two of the appellant's witnesses. The judge had to ask himself whether the undoubted fact of living a life without revealing his sexuality would, on return to Pakistan, be the result of a fear of persecution or his own personal preference to live a life that is sometimes referred to as '*living discreetly*'. That was a legitimate question to ask, guided by the appellant's own evidence as to his conduct in the United Kingdom which could not reasonably have been prompted by a fear of persecution.
5. The appellant's evidence was undoubtedly tainted by his earlier fraudulent application, notwithstanding his shrill protestations to the contrary, based on his unsupported claim that the fault lay with his former solicitors.
6. There was no reasonable prospect of the appellant establishing on the material before the First-tier Tribunal Judge his claim that he was at risk of persecution. The judge came to a sustainable conclusion, doubtless supported by his late application for asylum made in circumstances where the appellant knew he was in imminent danger of removal and sought any means to prevent it.

DECISION

The First-tier Tribunal Judge made no error of law and his determination of the appeal shall stand.

ANDREW JORDAN
DEPUTY UPPER TRIBUNAL JUDGE
28 November 2018