



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

Appeal Number: PA/10149/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 14 November 2018**

**Decision & Reasons
Promulgated
On 29 November 2018**

Before

UPPER TRIBUNAL JUDGE PITT

Between

**M J I
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Symes, Counsel, instructed by Clyde Solicitors
For the Respondent: Ms N Willocks-Briscoe, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Sullivan dated 14 September 2018 which refused the protection and human rights claim of the appellant.
2. 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.

3. The background to this matter is that the appellant was born in Pakistan in 1986. He came to the UK on 1 February 2010 as a Tier 4 Student and had leave in that category until 11 November 2014. An Article 8 ECHR claim was refused with only an out of country appeal on 27 July 2016. On 28 May 2018 the appellant was arrested and on 30 May 2018 made a refugee claim. That was refused by the respondent in a decision dated 3 August 2018. The appellant's appeal against the refusal was heard in the First-tier Tribunal on 11 September 2018 and, as above, refused by First-tier Tribunal Judge Sullivan in a decision dated 14 September 2018. Permission to appeal to the Upper Tribunal was granted by the First-tier Tribunal in a decision dated 3 October 2018.
4. The appellant's grounds of appeal are succinct and can be set out in full:
 - "1. The Judge fell into error in adopting a legally flawed approach to expert medical evidence.
 2. At [26] the Judge expressly 'give[s] less weight than I might otherwise have done in part because [Dr Stein's] conclusions appear to have been based largely on the Appellant's own account of his symptoms'.
 3. That precise approach to attaching less weight to medical evidence was admonished by the Court of Appeal in AM (Angola) v SSHD [2012] EWCA Civ 521:
 - '16. *It is plain that Ms Kralj believed AM, and the judge so found: see his para 24 cited above, where he said - 'It is clear, not only from the scarring report but also from the narrative part of Ms Kralj's assessment report, that she believed the claimant, taking everything she said at face value'.*
 17. *However, I would not agree that Ms Kralj was merely taking everything AM said 'at face value'. She was reporting as an experienced assessor in such matters, and she was conducting a 'health assessment'.*
 4. That flawed approach to the expert medical report infected and had a material bearing on any factual findings he made [thereafter] where the assessment of credibility requires to be undertaken symbiotically having regard to the medical evidence: Mibanga v Secretary of State for the Home Department [2005] EWCA Civ 367, [2005] INLR 377, [24] - [25]."
5. The medical evidence referred to here was a report of Dr G Stein set out on pages 40 to 53 of the appellant's bundle, stated to have been prepared following an examination of the appellant on 6 June 2018. There was also an addendum report dated 10 September 2018 from Dr Stein which is at pages 54 to 55 of the appellant's bundle.
6. The First-tier Tribunal said this about its approach to the evidence, including the medical report:
 - "25. I have considered all of the evidence before reaching any conclusion in this matter. The order in which I set out my findings

is not an indication that I have considered any one aspect of this matter in priority to, or isolation from, another. I also acknowledge that the Appellant's account must be assessed in the context of country conditions in Pakistan and that neither gaps nor discrepancies in the evidence are necessarily indicative of an account that has been fabricated or embellished. Where I find gaps or discrepancies in the evidence I have assessed them in the context of the evidence as a whole and in light of the explanations offered by the Appellant. I have assessed the documentary evidence in line with the guidance in Ahmed (Documents unreliable and forged) Pakistan* [2002] UKIAT 00439, again considering it in the context of the evidence as a whole before deciding what weight to give it.

26. I am satisfied that the Appellant has been suffering from difficulty sleeping and from depression. There is an indication of a family history of depression. He has been prescribed medication for those conditions. They are confirmed in Dr Stein's report but I give that report less weight than I might otherwise have done because his conclusions appear to have been based largely on the Appellant's own account of his symptoms. I also note that Dr Stein's addendum report says that he had spent the *'the greater part of [the interview] exploring why [the Appellant] had been beaten by these political unions and trying to understand the justice system and its corruption in Pakistan'*. In relation to the diagnosis of PTSD Dr Stein specifically writes *'The self-report provided by Mr [I] shows that he does fully meet the criteria for post-traumatic stress disorder'*. I understand that a doctor must take a patient history and that an experienced doctor will bring his experience to bear in his assessment of the symptoms described. However what is missing from this report is note of the doctor's personal observations. As an example, one paragraphs begins *'I asked him whether he was depressed and he said that he was'*. Much of the report is on the form *'I asked; he said'*, leading to the conclusion *'It seemed to me that he did have depression, panic and post-traumatic disorder ... I thought his symptoms were genuine'*. The basis for that last statement is not explained; it is an unfortunate gap in the report."
7. It is not my view that the First-tier Tribunal erred in concluding that "less weight" attracted to the evidence of Dr Stein. The approach that the FTTJ took to the evidence, including the medical evidence, set out in paragraph 25 and the reasons given for reducing the weight to be placed on the medical reports complied fully with the ratio in Mibanga. Adverse credibility findings were not used as justification for dismissing the medical evidence. The evidence was assessed in the round, in form and in substance.
8. Further, the judge sets out the correct approach to the medical evidence in line with AM (Angola) in paragraph 26, when stating "I understand that a doctor must take a patient history and that an experienced doctor will bring his experience to bear in his assessment of the symptoms described". The judge goes on to highlight how this particular medical

report did not have the requisite observations of the appellant's symptoms so as to be able to place weight on the conclusion. The finding that the reports were based "largely" on the appellant's own account was correct and supported by specific examples from the report. I was taken to only one comment at paragraph 30.7 of Dr Stein's main report where he referred to his own observation of the appellant's symptoms. This states:

"... today at interview he was pretty glum, he was able to talk but I thought he was moderately depressed".

It was not argued that there was anything beyond this in the reports referring to Dr Stein making his own observations of the appellant rather than merely reporting what the appellant told him.

9. The First-tier Tribunal Judge was therefore entitled to find that the medical report did not attract weight where it contained almost no objective assessment of what the appellant reported.
10. For these reasons, therefore, it is my judgment that the First-tier Tribunal took a proper legal approach to the medical evidence and identified proper reasons for placing little weight on it. It follows that the decision of the First-tier Tribunal does not disclose an error on a point of law.

Notice of Decision

11. The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed 
Upper Tribunal Judge Pitt

Date: 23 November 2018