Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/06259/2017

THE IMMIGRATION ACTS

Heard at Birmingham	**Decision & Reasons Promulgated**
On 19 March 2019	**On 20 March 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

HAK
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms Imamovic
For the Respondent: Mr Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 20 January 1992. He first entered the United Kingdom in September 2012 as a student. Further applications for leave to remain were refused and a subsequent appeal dismissed. Between April and July 2016, the appellant reported to the Immigration Services at Birmingham airport. On 27 October 2016, he failed to report. On 17 January 2017, he was served with a notice of illegal entry. On 27 January 2017, he made a claim for asylum. The Secretary of State refused that claim in a decision dated 15 June 2017. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 4 September 2017,

dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

The Grounds of Appeal

2. Permission to appeal was granted by Upper Tribunal Judge Grubb on 26 January 2018. The grant pre-dates the decision of the Upper Tribunal in *Safi and others* (permission to appeal decisions) [2018] UKUT 388 (IAC). The grant is not limited although the text under the heading 'Reasons' makes it abundantly clear that permission was only intended to be granted in respect of Article 8 ECHR. Upper Tribunal Judge Grubb gave detailed reasons for rejecting the other grounds of appeal. Mr Mills, who appeared for the Secretary of State, argued that, notwithstanding *Safi,* this was a rare case where the reasoning of the judge was so clear that the grant of permission should be restricted as he had intended. Whilst there is force in that submission, I permitted Ms Imamovic, who appeared for the appellant, to argue all the grounds. As will become apparent, I have concluded that none of the grounds has merit so the *Safi* point falls away.

3. A problem also arose at the hearing regarding the correct text of the renewed grounds of appeal. The appellant no longer relies upon the manuscript grounds which were refused in the First-tier Tribunal. The court file has a copy of typed grounds submitted nonrenewal which contain 21 paragraphs. It is clear from Upper Tribunal Judge Grubb's grant of permission [3] that he was looking at grounds containing at least 26 paragraphs. Neither I nor Mr Mills had the additional grounds of appeal. Ms Imamovic provided copies and I gave Mr Mills the opportunity to read the full text before we proceeded.

The Appellant's claimed relationship with Ms Descartes

4. The appellant claims to be in a relationship with a Ms Descartes. The judge found that the claim was not genuine [15]. The challenges made in the grounds of appeal are, frankly, little more than disagreements with the findings which the judge made on the evidence. At [13], the judge considered the evidence of Ms Descartes and the documentary evidence. *Inter alia*, she made a finding that the appellant was paying money into Ms Descartes' account. The appellant disputes this, claiming that the judge 'closed off other possible findings' in reaching the finding that which appears in her decision. I reject that submission. There is nothing irrational or, indeed, unfair about the analysis and findings contained in the judge's decision at [13]. Indeed, the decision is clear and lucid, a description which cannot be applied to grounds of appeal.

5. Ms Imamovic sought to introduce new evidence which had not been before the judge. In particular, she sought to rely upon a letter from a clergyman which he claimed clarified the marriage plans of the appellant and his claimed partner and cast doubt on the judge's negative findings at [13]. The letter postdates the judge's decision by several months. At [13], the judge has considered the evidence about the marriage plans and identified

a major discrepancy, a finding which was patently available to the judge on the evidence which she had before her. The clergyman's evidence does no more than to offer an opinion which conflicts with findings of the judge, an opinion it was not even provided until some months after the judge had reached her decision. There is no basis at all for accepting the appellant's submission that the letter undermines the judge's decision. Judge made findings of the evidence which was before her; cannot have erred in law by failing to consider evidence which was not produced to the Tribunal.

6. In any event, the judge has included an alternative finding regarding the relationship at [16]. On the basis that the appellant and Ms Descartes are in a genuine relationship, the judge finds that they could return together to Pakistan and live there in a Christian community. The additional grounds of appeal address this finding at [29]. The paragraph in the grounds opens with a bare assertion that the judge's finding is wrong, refers (without comment) to the country guidance upon which the judge relied and concludes by saying, 'it is submitted that the assessment of the appellant's relationship was conducted in an unfair and unreasonable manner which constitutes an error of law.' No particulars are given of this unfairness or unreasonableness. No challenges made to the judge's finding that it would be safe for the couple to return to Pakistan and live there as Christians. No challenge is made to the judge's finding (albeit brief) at [16] which effectively disposes of the family life element of any Article 8 ECHR appeal. Consequently, even if the judge has made errors in her findings regarding the relationship (which I do not find to be the case), the findings at [16] are sufficient to dispose of that aspect of the appeal.

Private Life (Article 8 ECHR and Paragraph 276ADE)

7. Both parties accept that the judge did not address the appellant's private life. Indeed, this is the only aspect of the appeal on which Upper Tribunal Judge Grubb intended to grant permission. Ms Imamovic accepted that the only relevant subparagraph of Paragraph 276ADE of HC 395 (as amended) is (vi):

> (vi) subject to sub-paragraph (2), is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK.

8. It was clearly an error on the part of the judge to omit consideration of the appellant's private life which had been pleaded, albeit in the briefest possible terms. However, I have a discretion whether or not to set aside the decision of the judge. In exercising that discretion, I have had regard to the strength of the appellant's appeal to remain in the United Kingdom on the basis of his private life. The appellant came to the United Kingdom as recently as 2012. There are in the bundle which was before the judge two brief character references; I am told that the fresh evidence which the appellant now seeks to produce contains any more such references. As

regards the application of Paragraph 276, such evidence is irrelevant. The appellant is a 27-year-old male in apparent good health. There is no reason to suppose that he has abandoned all contact with former family and acquaintances in Pakistan; as Mr Mills pointed out, he remains on good terms with his family living there. There are no obvious obstacles preventing the appellant's reintegration into Pakistani society; indeed, Ms Imamovic did not suggest to me that any existed. I find that the appellant simply cannot establish a claim that there would be very significant obstacles to his integration in Pakistan. Given that he fails to satisfy Paragraph 276 and has only resided in he country for a relatively brief period, the support of friends and acquaintances here does not begin to suggest the existence of a viable claim to remain outside the rules under Article 8 ECHR. In the circumstances, and notwithstanding her error, I have decided not to set aside the judge's decision.

Notice of Decision

9. This appeal is dismissed.

Signed Date 19 March 2019

Upper Tribunal Judge Lane