



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

Appeal Number: PA/10348/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 20 March 2019**

**Decision & Reasons
Promulgated
On 29 March 2019**

Before

UPPER TRIBUNAL JUDGE McWILLIAM

Between

**T M
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Rylatt, Counsel instructed by Duncan Lewis & Co Solicitors

For the Respondent: Ms A Everett, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Pakistan. His date of birth is 27th July 1982. He made an application on protection grounds. This was refused by the Secretary of State on 14 August 2018.
2. The Appellant appealed against this decision. His appeal was dismissed by First-tier Tribunal Judge Butler in a decision promulgated on 21 January

2019, following a hearing on 26 November 2018. Permission was granted by First-tier Tribunal Judge Blundell on 15 February 2019.

The decision of the FTT

3. The Appellant's account that he is at risk of persecution on account of his Christian faith was not accepted by the First-tier Tribunal. The Appellant gave evidence. He relied on documentary evidence, namely the documents at pages 145 and 147 of the Appellant's bundle which purport to be a Fatwah and a FIR. He gave an account of incidents that had occurred since April 2017, including threats that had been made to him and said that a false allegation of blasphemy was being pursued against him by the police in his home area.
4. The judge considered the documentary evidence and he said as follows at paragraph 35:

"35. Accordingly, whether the Appellant faces a risk of persecution on return to Pakistan depends on the credibility of his evidence. Following Tanveer Ahmed, it is for the Appellant to satisfy me that the documents he has produced are genuine. He has not done so. The documents produced, albeit with certified translations, are copies. The CIPN of March 2017 at paragraph 15 notes that the availability and accessibility of forged documents is widespread in Pakistan and that document fraud there is 'endemic' particularly in the case FIRS provided by police officers in return for bribes. If the fatwah and application to the police produced by the Appellant were sent by his father-in-law, I would have expected the originals to be produced. I do not accept these are genuine documents and attach little weight to it."
5. There was an expert report before the First-tier Tribunal from Ms Moeen who referred to the CPIN relating to Christian converts in September 2018. His conclusions are recorded by the judge at paragraph 2. The judge relied on the country guidance case of AK and SK (see paragraphs 30, 31, 32 and 33 of the decision). At 34 the judge concluded that the Appellant does not claim to be an Evangelist. This is not challenged by the Appellant. He found that he is educated. He owned two business and was financially comfortable (in Pakistan) and as such would not be at risk of persecution. The judge said at paragraph 34 of his decision with reference to the CPIN at 2.4.13; "state actors who use blasphemy laws against Christians are often motivated by spite, personal or personal disputes over land or property or may be triggered by certain political events. None of these, on his own evidence, apply to the Appellant". The judge went on to find the Appellant's account vague and unconvincing and that he failed to cite a single example of the kind of threats or action taken against his family by the police or others. The judge found that the account of his brother having moved to Cambodia "because of his problems" gave no hint that this was caused by threats or other interference in their lives.
6. The judge did not accept at paragraph 38 that the Appellant was not aware that he could claim asylum immediately on arrival. The judge

attached weight to the failure by the Appellant to mention matters in his screening interview, (see paragraph 39). The judge found other inconsistencies in the Appellant's account, (see paragraphs 41, 42 and 43).

The grounds of appeal

7. There are four grounds of appeal. Having heard submissions, I conclude ground 2 is made out. Ground 2 challenges the conclusions of the judge relating to the documentary evidence. It is asserted that the judge failed to apply Tanveer Ahmed (documents unreliable and forged) Pakistan [2002] UKAIT 00439 in analysing the documentary evidence. At paragraph 35 the judge identified credibility as being the determinative issue. He considered whether the documents were genuine (which is a different matter to reliability which was the issue here in the absence of any evidence produced by the Respondent that the documents were not genuine). The judge found that the documents were not genuine. He gave two reasons for this. The first reason given is that the original documents were not produced. The second reason is that there is document fraud in Pakistan is endemic. In conclusion he found that the documents were not genuine and attached little weight to them.
8. The principles in Tanveer Ahmed were summarised by the Tribunal in that decision at paragraph 38 as follows:
 - "38. In summary the principles set out in this determination are:
 1. In asylum and human rights cases it is for an individual claimant to show that a document on which he seeks to rely can be relied on.
 2. The decision maker should consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round.
 3. Only very rarely will there be the need to make an allegation of forgery, or evidence strong enough to support it. The allegation should not be made without such evidence. Failure to establish the allegation on the balance of probabilities to the higher civil standard does not show that a document is reliable. The decision maker still needs to apply principles 1 and 2."
9. In submissions my attention was drawn to paragraph 44 of the decision where the judge said:
 - "44. Having considered all the circumstances in the round, adopting the lower standard of proof, I do not accept the Appellant's account nor that the documents he has produced are genuine. I do not accept that his family has been threatened or that he will have any difficulty returning to Pakistan through any airport. It follows that I do not find he has a well-founded fear of persecution on account of his religion if returned to Pakistan. The question of internal relocation is not relevant in these circumstances. I do not find he is a refugee."

Error of law

10. A proper reading of paragraph 35 discloses an erroneous approach to the documentary evidence at odds with Tanveer Ahmed. The issue is whether what is said by the judge at paragraph 44; namely, that he considered all the circumstances in the round, throws a different light on paragraph 35. I have also taken on board that a judge must start at some point in the assessment of credibility. That he started with the documents does not amount to an error of law. However, I cannot be sure that the judge considered the documentary evidence in the round; notwithstanding what he said at paragraph 44. The judge's findings about the documents, at paragraph 35, are emphatic. His conclusions are grounded in the documents themselves with no reference to the evidence as a whole. Moreover, the reference to the documents not being genuine indicates that the judge may not have been aware of or understood the decision in Tanveer Ahmed. I am satisfied that the judge found the documents not genuine having considered them in isolation before considering the rest of the evidence. Having found that the Appellant had produced documents that were not genuine he had effectively decided at that point that his account was not credible. I am satisfied that the judge considered the documentary without properly applying the second principle in Tanveer Ahmed. This is a material error. Whilst the judge made a number of adverse credibility findings it is impossible to conclude that the erroneous approach to the documentary evidence would have no impact on the outcome of this appeal. The decision is set aside.
11. The appeal will be remitted to the FTT for a re-hearing having considered para 7.2 of the Practice Statement of the Senior President of Tribunals of 25 September 2012. There will need to be an extensive fact-finding assessment conducted by the Tribunal. I indicated at the hearing that I did not see a good reason why a judge determining the appeal should go behind the evidence that was recorded by the First-tier Tribunal, but this is a matter for the judge rehearing the appeal.
12. I do not need to make any ruling in relation to the applications that have been made under Rule 15 of the 2008 Procedure Rules. It is for the First-tier Tribunal to consider what evidence should be admitted and the weight to attach to it in the light of late disclosure.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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.

Signed Joanna McWilliam

Date 25 March 2019

Upper Tribunal Judge McWilliam

