



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

Appeal Number: PA/02576/2019

THE IMMIGRATION ACTS

Heard at Glasgow
On 9 January 2020

**Decision & Reasons Promulgated
On 16 January 2020**

Before

UT JUDGE MACLEMAN

Between

MOHSIN [I]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by LKW, Solicitors
For the Respondent: Mr M Clark, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge Handley dismissed the appellant's appeal by a decision promulgated on 24 June 2019.
2. The appellant has permission to appeal to the UT on the ground set out in his application dated 28 June 2019 as "errors in relation to a psychiatric report, (i) - (vii)".
3. Ground (i) says that the reasons for giving the report little weight are inadequate; in particular, that in stating it was odd that the appellant had no prior contact with specialists over his mental health, when there was no

indication that the appellant knew or suspected that he had any issues. Mr Winter added that the trigger for a mental health assessment was that the appellant was in immigration detention – see [40] – a new development, which undermined the observation of the delay being “somewhat odd”.

4. Mr Clark argued that the judge was entitled to make what he did of the fact that the appellant had been in the UK for 15 years without feeling any need for assistance with mental health issues. The judge placed the matter in context at [40] of a record of no thoughts of or attempts at self-harm, no learning difficulties, and no confusion or disorientation. Mr Clark also pointed out that the report itself suggested no mental health issues prior to 2018.
5. Ground (ii) alleges an error of putting the cart before the horse, or reaching adverse credibility findings in isolation from the report. It finds on the author of the report, Dr Balu, confirming the consistency of scarring on the appellant’s body with his account of events.
6. Mr Clark observed that the analysis of scarring was not the focus of the report, nor of Dr Balu’s expertise. Dr Balu was simply reporting a description from another report prepared while the appellant was detained, and not put before the FtT.
7. Ground (iii) finds upon no other explanations for the scarring having been advanced, on the basis of *RR* [2010] UKUT 000274.
8. Mr Clark submitted that *RR* is not in point, because this is not a case where the respondent advances another specific explanation for the scarring.
9. Ground (iv) is that the FtT was wrong in saying that it was not clear what criteria were applied to diagnose PTSD, because the criteria were set out in the report.
10. Mr Clark acknowledged that the criteria were in the report. He submitted that the slip was immaterial.
11. Ground (v) is that the FtT failed to assess the impact of the lack of a contradictory report.
12. Ground (vi) is that the finding of little weight is not supportable because there was no challenge to the *bona fides*, qualifications or expertise of the author of the report.
13. I did not need to hear from Mr Clark on grounds (v) and (vi).
14. Ground (vii) is on the materiality of error about the report. Mr Winter submitted generally that if proper weight had been given to the report, that might have removed doubts the judge had about the evidence of the appellant, such as at [33 – 34], and so a rehearing was required.

15. I reserved my decision.
16. Ground (i) correctly identifies that the appellant was in a new situation when a mental health assessment was first indicated, but when [40] is read in full, and it is noted that there was no indication of any prior difficulties, the judge's observation about the absence of concern over mental health problems over many years appears quite restrained, and no more than appropriate.
17. Ground (ii) has an initial apparent basis in that the judge goes from saying that Dr Balu confirmed the consistency of scarring to saying that he has already not accepted the account of the appellant. However, the decision, read fairly and as a whole, is based on the evidence in the round; and it is not based on the scarring being other than consistent with the account. That was simply a feature which did not take the appellant very far.
18. On ground (iii), *RR* is not in point.
19. On ground (v), the FtT did not need to say anything about the absence of a contradictory report. The decision is correctly based on evaluating the evidence as it stood.
20. Ground (vi) leads nowhere, because the decision was based on giving the report such weight as it deserved, in context, and not on any criticism of the author. The decision does not say or imply that Dr Balu is anything but a qualified expert giving his opinion in good faith.
21. That leaves only ground (iv). The criteria applied to diagnose PTSD judge were stated, and the judge was wrong in thinking that there was any lack of clarity. However, this is a minor point in the evaluation of the report, which in turn was not the crux of the evaluation of the evidence. It has not been shown that this slip undermines the overall adverse credibility finding, reached for several sound reasons.
22. The respondent refused the claim also on grounds of sufficiency of protection and of internal relocation. The judge overlooked to resolve those points, even in the alternative, which he should have done. The appellant does not appear to have had any real answer to those grounds. However, in light of the view I have taken of the grounds of appeal, it is not necessary to consider those matters any further.
23. The decision of the First-tier Tribunal shall stand.
24. No anonymity direction has been requested or made.



13 January 2020

UT Judge Macleman