



IN THE UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)
2023-001840

Case No: UI-

First-tier

Tribunal No: HU/52775/2021

THE IMMIGRATION ACTS

Heard at Edinburgh
on 18 October 2023

Decision & Reasons Issued:

1st November 2023

Before

UT JUDGE MACLEMAN & DEPUTY UT JUDGE FARRELLY

Between

N K

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr K Forrest, Advocate, instructed by Maguire, Solicitors
For the Respondent: Miss S Young, Senior Home Office Presenting Officer

DECISION AND REASONS

1. FtT Judge Komorowski dismissed the appellant's appeal by a decision issued on 18 July 2022.
2. Two issues were posed to the FtT, as recorded at [9] of the decision:- (i) Article 8 ECHR, whether the appellant established that removal to Pakistan would disproportionately interfere with her rights to private life because there are very significant obstacles to integrating there, and (ii) Article 3 ECHR, whether the appellant established a real risk that because of the absence of appropriate treatment in Pakistan for the illnesses from which she suffers, she would be exposed to a serious decline in her health or a significant reduction in life expectancy.
3. Mr Forrest clarified that the appellant makes no separate challenge to the outcome on issue (i).

4. On the appellant's state of health, the Judge set out the medical evidence clearly and in detail from [13 - 20] and began his analysis of it thus:

[25] I place particular reliance on what is reported by Dr. Srireddy. His opinion is the most recent. He will have met the appellant more than once. His opinion is also based on a review of psychiatric records. This puts him in a better position to assess the appellant than Dr. Cameron, Dr. Livingstone and Dr. Morrison.

5. The analysis, also set out clearly and in detail, leads to these conclusions:

[33]. In the absence of any reliable evidence of a mental disorder, including depression, I hold that the appellant has failed to establish that she is suffering from any mental health condition.

[34]. Again, in the absence of reliable evidence to this effect, I hold that the appellant has failed to establish she is at real risk of suicide, whether currently or in the event she is removed from the United Kingdom to Pakistan.

6. The appellant's grounds of appeal to the UT flow from the proposition that to give more weight to the opinion of Dr Srireddy " ... *may not have been unreasonable had it been clear that [he] - like the other doctors - had actually seen the appellant*". The thrust is that as Dr Srireddy did not examine the appellant for the purposes of the report, the Judge, in saying that he would have seen her more than once, has gone astray, and has erred by giving more weight to the opinion of a doctor who has only read the records than to those of doctors and psychologists who have "*actually seen and examined her and seen how she has behaved.*"
7. The subsidiary theme in the grounds is that four other reports saying the appellant does suffer from some form of mental disorder (although differently diagnosed) cannot all be wrong, and cannot be explained away by the appellant's account of herself having previously been discredited, as the truthfulness of her account is not the only basis for such opinions.
8. On 25 May 2023, FtT Judge Mulready granted permission, describing the decision as careful and detailed, but being taken by the point in the grounds "*that there is nothing in the decision or the report of Dr Srireddy which confirms he had indeed met the appellant*"; and going on, "*In fact the report, as recorded in the decision, makes clear that Dr Srireddy had not met the appellant for the purposes of the report*".
9. The respondent's response to the grant of permission under rule 24, dated 8 June 2023, submits that "*... it is clear from the report that the appellant has been under the care of Glasgow City Health and Social Care Partnership, for 2 and half years [see paragraph 1, letter dated 16 May 2022]*" of which Dr Srireddy is part, and that therefore "*... the Judge was correct in his analysis*".
10. As matters were developed in submissions, and on reading that report, it became clear that the respondent is correct. The grounds are based on a partial misreading. That was an understandable slip, made in all good

faith; but it does not stand up to a reading of the report as a whole, and to placing it in context.

11. The grant of permission was based on taking that initial misconception one step further.
12. Dr Sireddy is the head psychiatrist who has overseen the appellant's case. The opening paragraph of his report (apparently filed for the appellant on the day of the FtT hearing) says that it is based on "*information contained within her NHS GG&C psychiatric records*" and that the author "*has not specifically examined Ms Kouser for the purposes of providing this report*" but in the first numbered paragraph it refers to "*our contact with her over the past 2 ½ years*". Miss Young also drew our attention particularly to the final paragraph, [6], stating that she "*... has been receiving input from a psychiatrist since June 2020 and is currently seen by myself in the outpatient clinic*".
13. (In context of recent and direct knowledge, it is readily understandable that the author was able to prepare his report without a further examination.)
14. Once this misconception is discovered, the grounds fly off. They would not have merited a grant. The Judge was eminently entitled to give each report such weight as he did, for reasons which he clearly explained.
15. (It is also rather doubtful whether even if the relative weight given to each report were to be adjusted, they might yield the conclusion that the appellant is entitled to protection under article 3; but that does not need to be taken any further.)
16. The appeal to the UT is dismissed. The decision of the FtT shall stand.

Hugh Macleman

20 October 2023
UT Judge Macleman