



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002154
First-tier Tribunal Nos:
HU/52399/2022
HU/01839/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 15 August 2024

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

MUHAMMAD KAMRAN
(no anonymity order made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Z Nasim, Counsel, instructed by Direct Public Access
For the Respondent: Mr N Wain, Senior Home Office Presenting Officer

Heard at Field House on 16 October 2023

DECISION AND REASONS

1. The appellant is a citizen of Pakistan. He appeals against the decision of the respondent on 9 December 2021 refusing him leave to remain in the United Kingdom on human rights grounds. The appeal was previously dealt with unsatisfactorily in the First-tier Tribunal. I found the First-tier Tribunal had erred in law and I set aside the decision.
2. The appellant relies on Article 8 of the European Convention on Human Rights. It is for him to prove on the balance of probabilities the facts necessary to establish his case and for the respondent to justify any interference in his private and family life.
3. Mr Nazim made clear that the appellant did not rely on Article 3 of the European Convention on Human Rights.

4. This rather late decision is based very closely on a draft that I received from the typist on 23 October 2023. I am sorry that I have not promulgated it sooner than I have.
5. The papers show that the appellant was born in April 1979 and so is now 45 years old. It is the appellant's case that he entered the United Kingdom without permission on 3 November 2004 and applied for leave to remain on human rights grounds on 16 December 2020 but his claim was not accepted until 13 January 2021.
6. I consider how the respondent analysed the case. The respondent decided that there was no question of the appellant relying on "family life". He did not have a partner or a child in the United Kingdom. He was 41 years old when he applied for leave and so clearly had not been in the United Kingdom for at least half of his life and the respondent did not accept that the appellant had severed his social and cultural family ties in Pakistan. Rather, the appellant had said that he had a mother and sisters and brothers in Pakistan. The respondent found no compelling reasons to allow him to remain. The respondent noted the appellant's claim to have been supported by someone he identified in the United Kingdom but said that support could be continued in the event of his return to Pakistan.
7. Further, it was the appellant's case that he had a mother and brothers and sisters in Pakistan and had not provided any evidence to show that they could not continue to offer support in the event of his return. Put simply, he had been in the United Kingdom since November 2004 without any lawful basis for his stay and there was no reason for him not to return to his country of nationality.
8. In his application form the appellant said that he was destitute and did not have accommodation or means of getting it and asked for his fees to be waived. He confirmed that he had a Pakistani passport issued in February 2004. He said he was living in accommodation provided by a friend. He claimed to have had a "medical issue" and referred to a medical report that he had provided. His friend supported him by giving him cash in the sum of about £90 a month.
9. He had provided a "Private and Confidential Psychologist Assessment Report" prepared by a Dr Gurvinder Kaur on December 2020. Dr Kaur is a psychologist. It followed an interview with the appellant on 18 November 2020. I now outline the important matters from that report. Dr Kaur recorded that the appellant suffers from anxiety and depressive disorder and described him as a "very vulnerable person". He suffers from psychosis and has symptoms of paranoid schizophrenia which are untreated. He was said to be suffering from severe depression and he took medication to ease his symptoms and engaged in Cognitive Behaviour Therapy. The appellant was unable to say if he had been prescribed any medication and he accepted that he usually "forgot" to take his medication. He needed care and support to take his medication and to achieve basic standards of hygiene and day-to-day care. He started having Cognitive Behaviour Therapy twice a week and he was referred for the possibility of additional treatment.
10. Dr Kaur found the appellant to be "very cooperative during the sessions and he was willing to improve his condition". He said that he was afraid to take medication or see healthcare professionals because they would arrest him and send him to jail.

11. Dr Kaur explained that she is a qualified clinical psychologist with sixteen years' experience. She then referred to the interview with the appellant. She saw him at her clinic and then at his own home. She found him cooperative and nervous. She found that he had "strong delusional beliefs" such as thinking he was being followed. She concluded that his judgment "was affected by strong delusions and hence he lacked capacity to provide consent to any legal requirements such as providing correct facts or numbers or incidence".
12. Dr Kaur felt that the appellant needed care to manage his life and particularly his medication. He was scared to go home and thought somebody would be following him. She was providing him with ongoing Counselling Behaviour Therapy.
13. Dr Kaur then looked at the appellant's personal history. He explained that he had an uneventful, happy childhood. He was educated in the state system where he made friends and completed his secondary education in Pakistan at a recognised institution. He was single, his close family were his mother and two younger sisters and two younger brothers. His father had died a year before the consultation.
14. According to Dr Kaur's report, the appellant came to the United Kingdom on 3 November 2004 for a visit using a visa granted for the usual six months but he decided not to return to Pakistan but to remain in the United Kingdom which he did for sixteen years. This is the only reference that I have noted to the appellant entering the United Kingdom lawfully but nothing turns on this. Overstaying since April 2005 is, arguably, less discreditable than entering unlawfully and remaining but for the purpose of an article 8 balancing exercise on the facts of this case it would not lead to a different outcome.
15. The appellant had a close relationship with a partner but she left him unexpectedly in 2015 and this provoked a decline in his mental health.
16. At the time of his examination he said he was living on his own; he had no close family members in the United Kingdom.
17. He also regarded his mother as "very old and unable to look after him". His family lost contact with him in the United Kingdom "because of his unpredictable behaviour".
18. He moved into his present accommodation living with a friend who was acting out of kindness towards him after he had broken up with his partner. He felt guilty because he had lived in the United Kingdom without permission and this was affecting his health. He was also having problems with his sight.
19. He said his father had died. He explained he had not been able to contact his family, in part because he was frightened to make telephone calls because he would be overheard. He thought that every phone call was subject to surveillance. Indeed, Dr Kaur was satisfied that the appellant believed that Immigration Officers were following him all the time and would kill him.
20. The appellant expressed a sense of hopelessness when his partner left him.

21. He does not smoke or drink alcohol and there is no history of using illicit drugs. He is taking medication for high anxiety level and had been isolated during the Covid epidemic.
22. Dr Kaur found that the appellant was of a healthy weight, that he had weak eyesight and poor personal hygiene. He was taking anti-depressants and non-prescription drugs. He sometimes bought medicines online but he could not explain why he did that. In 2015 he was admitted to a local crisis unit for initial assessment as he had tried to run away from hospital but was discharged. He avoids going out because he said people followed him and punched him and beat him. He had even been attacked with sharp razors. He said he had scars on his body as a result of a beating sometime in a previous night and marks on his face done by self-harm. He could not explain his situation to his mother because she was too old and poorly herself. He believed that Immigration Officers were near his house every day waiting to catch him and people had abused him. He had said how he thought about ending his life and had once tried to drink concentrated bleach. He was sometimes disoriented about time and thought he had just come to the United Kingdom.
23. Dr Kaur noted she did not have access to all his medical history but his care providers had told her that he had been prescribed Sertraline at 100 mgs. He told her of being arrested and kept in hospital and then injected and given medications. His care provider said that the appellant had gone to local Accident and Emergency unit and had then been taken to a hospital. Dr Kaur found that the appellant suffered from "anxiety and depressive disorder and severe depression and hallucination and delusion". He had no close ties in the United Kingdom; his mother and siblings contacted him occasionally but he did not answer them because he believed they were in touch with officials in the United Kingdom.
24. Dr Kaur gave a detailed description following her examination and said the appellant was "not calm". I find that phrase illuminating in the context of the rest of the report.
25. The appellant said that he would "rather kill himself" and he had tried to injure himself. He hears voices calling to him and challenging him.
26. Under the heading "Opinion and Recommendations" Dr Kaur said that the appellant's mental health was completely broken when his relationship with the woman ended and he was at a high risk of self-harm. He has persecutory delusions that he will be killed by "immigration people" and he does suffer from paranoid schizophrenia which is untreated. General medical practitioners should be able to help. He was not fit to attend court and give evidence. He was fit to instruct a solicitor. He was not fit to fly due to his unpredictable behaviour driven by his delusions. He should not be detained in immigration removal centre.
27. The report then concluded with appropriate declarations of independence and professional obligations.
28. There is a report from the Loughton Health Centre dated 27 September 2021 describing the appellant as a man with "severe mental health concerns which currently remain untreated".

29. There is a short statement from his friend Mr Nawaz Ali Shah where he said he had been helping him with his finances.
30. There was additional evidence before me, particularly a medical report from a Dr Amir Mukhtar who is a clinical psychiatrist. Dr Mukhtar examined the appellant on 9 October 2023. He saw general medical practitioners' letters dated 27 September 2021 and 9 October 2023 as well as the psychologist's report from December 2020. He described the appellant as a "44 year old man originally from Pakistan, currently residing in West London without a valid visa. He has an established diagnosis of Paranoid Schizophrenia, Depressive Disorder and history of self-harm (according to his GP records)".
31. The appellant presented with a range of distressing emotions "characterised by intense anxiety, persistent insomnia, and a consistently low mood". He expressed a belief that he would be detained by doctors and nurses and put on a plane to Pakistan.
32. He had taken an overdose of Paracetamol some two years ago and there was reference to drinking bleach and jumping off a roof.
33. I do not mean to be dismissive of Dr Mukhtar in any way when I say that he repeated many of the observations of Dr Kaur. This is very helpful. A criticism of Dr Kaur's evidence was that it was rather old but the position appears to be that symptoms complained of then broadly remain.
34. Dr Mukhtar said that his "mood was anxious subjectively but his effect was warm and reactive". The appellant was generally oriented in time, had some degree of insight into his mental health and had capacity to give instructions but his untreated psychosis and paranoid schizophrenia made it more difficult. He was strongly advised to keep in contact with his general medical practitioner.
35. The appellant did not appear before me. I make no adverse criticism of that. It is very unlikely that he would have been fit to give evidence and the hearing was more likely to distress him than assist him.
36. Mr Wain drew my attention to a CPIN Report of September 2020 showing that medical care is available in Pakistan. The relevant part of the report was rather unpromisingly under the general heading "Drug addiction" which is not this appellant's problem. It referred to there being help for vulnerable people in remote areas of Pakistan at nominal or no cost. Mr Wain essentially adopted the Reasons for Refusal Letter. Mr Nasim realistically and helpfully made clear that he was not relying on Article 3.
37. This is a case where I have, at least broadly, been told the truth. Clearly the two experts' reports that I have considered with some care have been prepared by honest, competent professional people and the broad correlation between the symptoms picked up by the different doctors some two years apart is striking. It is absolutely plain that the appellant is a poorly man.
38. I do not know if the appellant can access family support in Pakistan. He says that he cannot but, for reasons that are at all discreditable, he is not a reliable historian. I inclined to the view that his family would support him. I see no reason why they would abandon him. It is his case that they have lost touch because of his unpredictable behaviour and he is frightened to contact them because he

believes that they are in contact with officials in the UK. He says that he misses his mother. However I do not dismiss the appeal because the appellant's relatives might help him but because the respondent's evidence persuades me that support is available in Pakistan without resort to his family.

39. I find that the clear evidence that medical care is available defeats any claim based on there being "very significant obstacles" in the way of his reintegrating into life in the United Kingdom.
40. I have to consider Part 5A of the Nationality, Immigration and Asylum Act 2002. The appellant is not a foreign criminal but he is an illegal entrant or, possibly, an overstayer. He has no lawful business in the United Kingdom and the maintenance of effective immigration control is in the public interest. There is reference to the desirability of people seeking to remain in the United Kingdom being able to speak English, which this appellant does not beyond a smattering, and in his present state of health he is not economically independent.
41. I am required by statute to give little weight to a private life established when the appellant is in the United Kingdom unlawfully, which is exactly this man's circumstances. He cannot rely on the close personal relationships which sometimes lead to success for the sake of the people who would be disrupted by removal. There is little to add on the scales in favour of his remaining. He has clearly established a private life but there is nothing of any great consequence here. His health is difficult but there is no evidence that removal might provoke the kind of severe decline that would be appropriate to found a case on Article 3 grounds and Counsel made it plain that was not the case.
42. A degree of speculation is always required in cases of this kind because the task is predictive. I have to consider what would happen in the event of his return. His own evidence through what he said to the medical practitioners is that he has a mother and siblings in Pakistan who have tried to contact him but I cannot, and do not, assume that they will help him.
43. Clearly any removal will need to be managed carefully. It may be hard for him to accept that his experiment with life in the United Kingdom has failed. I acknowledge the evidence of Dr Mukhtar that the process of removal would be disturbing and harmful.
44. Mr Nasim put the case as forcefully as was professionally proper and I am grateful to him for his measured submissions.
45. I do accept there is a "private and family life" established in the United Kingdom although only at the "private life" end of the continuum. I accept too that refusing to give the appellant leave will disrupt that, but I find that the disruption it is lawful and proportionate.
46. I repeat and emphasise that some care will be needed to remove this man. The medical evidence before me is that the appellant cannot fly but that can be addressed with appropriate support or the situation re-examined if it cannot be addressed but the difficulty in this case is in how his removal can be managed safely rather than whether he should be entitled to remain. He is not a convicted criminal but he has chosen to live in the United Kingdom without permission which, broadly, is contrary to public policy. The public interest requires his removal and there is nothing in the private life which would make that

disproportionate. Sensitivity must be shown for his mental health but he has conditions that can be treated in Pakistan.

47. This appeal has to be, and is, dismissed.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

14 August 2024