



**The Upper Tribunal
(Immigration and Asylum Chamber)
IA/27691/2014**

Appeal number:

THE IMMIGRATION ACTS

Heard at Manchester

**Decision & Reasons
Promulgated**

On March 11, 2015

On March 13, 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MS SOBIA RAFIQ
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

Appellant

Mr Skyner, counsel, instructed by Adamson Law
Solicitors

Respondent

Mr McVeety (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellant is a citizen of Pakistan who arrived in the United Kingdom on October 8, 2010 with valid entry clearance as the spouse of a person present and settled in the United Kingdom. On December 10, 2012 she applied for indefinite leave to remain on the basis of domestic violence but his was refused by the respondent and her appeal against that decision was dismissed by Judge of the First-tier Tribunal White on July 2, 2013. On May

2, 2014 the appellant re-applied for settlement as a victim of domestic violence but the respondent refused this application on June 18, 2014 under paragraph 289C with reference to 289A(iv) HC 395. A decision to remove the appellant was taken on June 18, 2014.

2. The appellant appealed on July 3, 2014, under section 82(1) of the Nationality, Immigration and Asylum Act 2002.
3. The matter came before Judge of the First-tier Tribunal Shimmin (hereinafter referred to as the "FtTJ") on September 15, 2014 and in a decision promulgated on September 25, 2014 he refused her appeal under the Immigration Rules.
4. The appellant lodged grounds of appeal on October 1, 2014 submitting the FtTJ had erred in his approach to the medical evidence.
5. On December 1, 2014 Judge of the First-tier Tribunal McWilliam gave permission to appeal finding there were arguable grounds that the FtTJ had erred although indicated that any error may not be material because of the content of the report.
6. The matter came before me on the above date and the parties were represented as set out above. The appellant was not in attendance.

ERROR OF LAW SUBMISSIONS

7. Mr Skyner adopted the grounds of appeal and submitted that the FtTJ had erred by discounting the medical evidence not only on grounds of substance but also because it did not, in his opinion, have details of the expert's address and contact details. He also argued the FtTJ should have considered the report in light of the other evidence.
8. Mr McVeety adopted a rule 24 response dated December 12, 2014 and submitted the FtTJ correctly followed the approach set out in Devaseelan v SSHD [2002] UKIAT 00702. There had been no other challenge to the determination apart from the approach adopted in respect of the medical report. The doctor had not had any of the papers and based his whole report on an interview that lasted for a maximum of one hour. The FtTJ did consider the contents of the report in paragraph [22] and found "... I accept the submission of the respondent that in a short attendance of one hour the doctor has accepted the statement of the appellant as to her circumstances and it is upon this basis that he has prepared his report." Whilst the doctor considered her depression he had no regard to any other evidence and the findings made were open to the FtTJ.

9. Mr Skyner emphasised that the FtTJ rejected the medical evidence not merely for the reason given by Mr McVeety but also because of the lack of an address on the document.
10. Having considered the submissions and having considered the report and the FtTJ's determination, in particular, I refused the appeal and indicated to Mr Skyner I would give my written reasons in this determination.

ERROR OF LAW ASSESSMENT

11. The issue before me centred on the FtTJ's approach to the medical evidence. Both parties accepted this was the only issue for me to determine and in considering the grounds of appeal I reviewed the file of papers but paying particular attention to the doctor's report and the FtTJ's determination.
12. The point made by the FtTJ regarding the lack of details about the doctor was a valid point because the report itself consisting of 7 pages did not contain her CV or address of work albeit it did contain a mobile telephone number. There was contained within the bundle of documents, submitted by the appellant's representatives, a printout of a letter containing information about the doctor. However, parts of the page had not been copied. For instance, two questions asking about when the doctor was entered on the "specialist register entry date" and "GP register entry date" only contained the answers "this doctor is no o".
13. Most expert reports contain all the necessary information of a person's place of work but sadly this report did not.
14. The issue is whether firstly that amounted to a material error and/or secondly whether the FtTJ considered the content of the report.
15. I am satisfied the report was considered. The report is extremely limited in its nature and is based on one appointment with no background information being made available to the doctor. The report is based wholly in what she was told. The FtTJ rejected this report on content and was also critical of matters raised above.
16. I am satisfied the FtTJ considered the report and concluded the contents did not alter the position adopted by Judge of the First-tier White. That finding was clearly open to the FtTJ. The finding over the address was not totally without some basis but even if the address was on it that would not alter the contents of what the FtTJ found was a weak report.

DECISION

- 17. There was no material error. The original decision shall stand.
- 18. The First-tier Tribunal did not make an anonymity direction pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to alter that order.



Signed:

Dated:

Deputy Upper Tribunal Judge Alis

**TO THE RESPONDENT
FEE AWARD**

As I have dismissed the appeal I make no fee award.



Signed:

Dated:

Deputy Upper Tribunal Judge Alis