



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/03310/2015**

Appeal Number:

AA/03312/2015

AA/03313/2015

AA/03316/2015

AA/03318/2015

THE IMMIGRATION ACTS

**Heard at Stoke
On 13 April 2016**

**Decision & Reasons Promulgated
On 16 May 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

**JASPAL SINGH CHOPRA
HARPREET KAUR CHOPRA
RAJMEET SINGH CHOPRA
PARDEEP SINGH CHOPRA
GURVEEN KAUR CHOPRA**

Appellants

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr A Sinker instructed by Christian Gottfried & Co
Solicitors

For the Respondent: Mr A McVeety, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants, a husband, wife and their three children, all nationals of Afghanistan, appealed to the First-tier Tribunal against decisions of the Secretary of State dated 9 February 2015 to refuse the first appellant's application for asylum and the applications of his wife and children as his dependants and to remove them from the UK. First-tier Tribunal Judge Myers dismissed the appeals and the appellants now appeal with permission to this Tribunal.
2. The appellants claim to be Afghani Sikhs and claim that they were evicted from their home in Jalalabad in 1991 and had to move to a building in the compound of the Gurdwara along with other Sikh families. The first appellant claims to have run a successful business as a wholesale trader along with his younger brother. He claims that the Taliban demanded money from him in July and October 2013 and that he gave them money then. He claims that they demanded \$10,000 from him in January 2014 and when he said that he did not have this money he was told that if he did not pay within one month they would forcibly take his son to join them as a Taliban fighter. The first appellant arranged for the family to leave the country, by selling stock and calling in debts he paid an agent \$65,000 and they left Afghanistan on 25 January 2014.
3. In dismissing the appeal the First-tier Tribunal Judge found that the appellants had not demonstrated that they are Afghan citizens on the basis that the first appellant conducted his asylum interview and his oral evidence in Punjabi and he had difficulty understanding the Pashtu interpreter who he claimed read his witness statement back to him. The Judge also found that the appellant's answers in interview about Jalalabad were incorrect and that his description of Sikh life in Afghanistan was vague and lacking in detail. The Judge found that the appellant's credibility was damaged because in his asylum interview he gave discrepant dates for the second demand for money from the Taliban; because he said that he could not pay the Taliban \$10,000 yet he raised \$30,000 and then \$35,000 to leave the country; he did not discuss the demands for money with his younger brother who he said worked with him, until just before he decided to leave the country; and he was unable to explain why he did not take steps to avoid his problems such as selling his business or moving to another area of Afghanistan. The Judge placed little weight on documents the appellants submitted. The Judge concluded that she was not satisfied that the appellants originate from Afghanistan and found that the claim lacks credibility.
4. In their grounds of appeal the appellants contend that the Judge erred in concluding that the first appellant was not Afghani because he did not speak Pashtu at the interview and hearing because there was not an interpreter available on each occasion and the Judge's conclusion is said to be at odds with the country information which confirms that the Sikh minority in Afghanistan often speak in Punjabi with a localised dialect. It is contended that the Judge gave undue weight to the typographical error in

the appellant's witness statement in relation to the year of his eviction from his house and in concluding that the appellant had difficulty understanding the Pashtu interpreter who read it back. It is further contended that the Judge erred in finding that the appellant's answers in relation to the landmarks in the city of Jalalabad were incorrect and just followed what the respondent asserted. It is contended that the Judge's assertion that the appellant was asked twice in interview if he meant August (in relation to the second Taliban demand for money) was not found in the asylum interview. It is contended that the Judge misunderstood the appellant's evidence in response to the Taliban's third demand for money. It is further contended that the Judge erred in attaching little weight to the voter registration which is dated 2003 and 2004 in that the Judge said that the elections took place in 2005 whereas the country information states that they took place in June 2004.

5. Permission to appeal was granted on the basis that it is arguable that in making the finding of credibility and fact against the appellant due to the language he spoke in evidence the Judge failed to have regard to the background information. It was considered arguable that the Judge failed to set out in adequate detail examples of the incorrect answers given by the appellant about Jalalabad.

Error of law

6. At the hearing before me Mr Sinker submitted that the appellant's case is that he speaks both Punjabi and Pashtu. He accepted that there was no evidence before the Judge that Sikhs in Afghanistan speak Punjabi but said that he now had evidence that Afghani Sikhs speak Punjabi. Mr McVeety submitted that a Punjabi interpreter had been requested for the hearing and that the appellant had a Punjabi interpreter at the asylum interview and the appeal. He submitted that the Judge pointed out that on the one occasion the appellant says that he had a Pashtu interpreter, when he made his witness statement, there is a glaring mistake. He submitted that in these circumstances it was open to the Judge to find as he did and that this was a rational finding. He submitted that this was a live issue as the respondent did not accept in the Reasons for Refusal letter that Punjabi is an official language of Afghanistan. He submitted that there was no evidence submitted on the appellant's behalf in relation to this issue and that it was open to the Judge to find as he did.
7. Mr Sinker accepted that there was no evidence before the Judge to support his assertion that Afghani Sikhs speak Punjabi, this is despite this clearly being an issue raised in the Reasons for Refusal letter (paragraph 16-17). Further, it seems from the Judge's decision, and Mr Sinker did not submit otherwise, that no submission was made to the Judge in relation to this issue. The evidence before the Judge was that the first appellant claims to speak Pashtu, Punjabi and Dari (witness statement dated 27 February 2014) and that his witness statement was read back to him in

Pashtu, that he conducted his asylum interview through a Punjabi interpreter and gave oral evidence through a Punjabi interpreter. The Judge noted that the appellant said in his statement that he had been evicted from his home ten years previously yet he said in his asylum interview that he had been evicted in 1991. Again this discrepancy was referred to in the Reasons for Refusal letter. Further, the Judge noted that in response to Q125 (this should read Q129) in the asylum interview the appellant said that the witness statement was read to him in Pashtu whereas the interview was in Punjabi. In the light of this answer I consider that it was reasonable for the Judge to conclude that the implication was that the appellant could not understand the statement because it was read to him in Pashtu. Considering all of these issues and the evidence before the Judge I am satisfied that it was open to the Judge to conclude as he did that the fact that the first appellant spoke Punjabi damaged the credibility of his claim to be Afghani.

8. Mr Sinker submitted that the Judge did not detail which of the appellant's answers to questions about Jalalabad lacked detail or were wrong, he submitted that the Judge's reasoning was inadequate in relation to that issue. Mr McVeety submitted that the appellant did not counter the conclusions in the Reasons for Refusal letter as to the appellant's knowledge about Jalalabad, and the burden of proof is upon him and that in these circumstances it was open to the Judge to refer to the Reasons for Refusal letter.
9. This issue was also raised in the Reasons for Refusal letter and the Judge sets out the explanations given by the first appellant in oral evidence and the reasons why he did not accept those explanations. Again I am satisfied that these findings were open to the Judge on the evidence before her.
10. Mr Sinker submitted that the Judge made a mistake in saying at paragraph 20 that the appellant was asked twice at interview to confirm that he meant August (in contrast to his earlier answer when he said October) when the appellant was not asked twice. Mr McVeety submitted that the appellant was in fact asked twice and that the Judge was right.
11. At Q 121 of his asylum interview the appellant said that the second payment was made to the Taliban on 15 August 2013, he was asked at Q122 if it was in August 2013 and he answered 'yes'. At Q137 he gave three dates, the second was 15 October 2013 and when asked why he had earlier said August he said that he could not hear (Q138) and then failed to answer Q139 when he was asked for an explanation. The Judge was therefore right in saying that the appellant was asked twice at interview to confirm that he meant August and that he did so each time. The Judge was entitled to conclude that this discrepancy damaged the appellant's credibility.

12. In response to Mr Sinker's submissions as to how the Judge treated the documentary evidence Mr McVeety submitted that the Judge was entitled to look at the documents along with all of the evidence in the round.
13. The Judge considered the documents at paragraph 22. The Judge was entitled to conclude, in the absence of an explanation to the contrary, that it would have been easy for the appellant to have obtained more contemporaneous documents from his brother who he claims still lives in Afghanistan. It was open to the Judge to consider the documents in the round along with all of the evidence.
14. The appellants have not made out their grounds of appeal. The Judge properly considered all of the evidence and reached conclusions open to her on the basis of that evidence.

Conclusion

15. The making of the decision of the First-tier Tribunal did not involve the making of a material error on a point of law.
16. The decision of the First-tier Tribunal shall stand.
17. I make no anonymity direction.

Signed

Date: 12 May 2016

Deputy Upper Tribunal Judge Grimes

TO THE RESPONDENT FEE AWARD

No fee is payable and therefore there can be no fee award.

Signed

Date: 12 May 2016

Deputy Upper Tribunal Judge Grimes

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