



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

Appeal Number: PA/09660/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 26 February 2018**

**Decision & Reasons Promulgated  
On 20 April 2018**

**Before**

**UPPER TRIBUNAL JUDGE CRAIG**

**Between**

**[A I]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr J Gajjar, Counsel, instructed by Vanguard Solicitors  
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Pakistan who was born on [ ] 1986. He entered the UK as a visitor in September 2012 but did not leave when his visa expired and instead overstayed. In July 2014 he was encountered by Immigration Officers working in a restaurant. He was served with an immigration notice and was released on reporting conditions but he failed to comply with those conditions and in March 2015 he absconded. He was then encountered again working in a restaurant in July 2017 at which point on 16 July 2017 he claimed asylum. He was detained originally but has later been released on bail.

2. He was interviewed on 8 August 2017 (his screening interview) when he said that he would be at risk on return to Pakistan because he had been the General Secretary of a Sunni religious organisation and was at risk from Shia Muslims by reason of his attempts to convert people from being Shia Muslims to becoming Sunni Muslims. He gave a fuller account of his claim in his asylum interview which occurred some fourteen days later on 22 August 2017. He claims he was in fear of a person called Mr Shah who was a powerful man who had been involved in his arrest and he claimed that he had lodged an FIR against them. He also claimed that the persons he feared had connections to the Government and some were MPs and members of National Provincial Assemblies. This claim was refused by the respondent on 14 September 2017. The respondent considered that his account in interview was unimpressive, to say the least, and inconsistent. The respondent also considered that the appellant's credibility was damaged by the inconsistencies within his account and also by the fact that his claim for asylum was made very late.
3. The appellant appealed against this decision on asylum and human rights grounds, claiming that he had established a private and family life in the UK.
4. This application came before First-tier Tribunal Judge Widdup, sitting at Harmondsworth on 31 October 2017, but in a Decision and Reasons promulgated on 8 November 2017 Judge Widdup dismissed his appeal on all grounds.
5. The appellant now appeals against this decision on what are now very narrow grounds. Permission was given by First-tier Tribunal Judge Nigel Osborne who stated as follows, when giving his reasons:
  - "1. The grounds seek permission to appeal a decision and reasons of First-tier Tribunal Judge Widdup who in a decision and reasons promulgated 8 November 2017 dismissed the Appellant's appeal for protection.
  2. The grounds assert that the judge materially erred in law and in deciding to refuse to adjourn the hearing made an irrational Decision. The judge failed to give sufficient reasons for refusing to adjourn at [59]. At [72] the judge failed to give sufficient reasons/make proper findings on whether the documents had been properly obtained. The judge failed to consider the appeal under the Immigration (European Economic Area) Regulations 2016 despite an EEA relationship under Section 120 response being raised.
  3. In an otherwise careful and appropriately detailed decision and reasons it is nonetheless arguable that the judge should have granted the requested adjournment. The Tribunal and the Respondent had been put on notice of the Appellant's relationship with an EEA national who was unable to attend the hearing. In that respect it is arguable that the Appellant was unable to present his appeal to its best effect.

..."

6. Before this Tribunal Mr Gajjar relied only on the two grounds identified in Judge Osborne's reasons, that being first that the judge ought to have adjourned the hearing in order to allow the appellant to argue the EEA point, and secondly, that the judge ought not to have rejected the letter from the person said to be the appellant's advocate in Pakistan (with reference to paragraphs 70 and 72 of the decision), or at the very least that his reasons for doing so were inadequately reasoned.
7. I agree entirely with Judge Osborne that Judge Widdup's decision is a careful and detailed one and indeed in my judgement it is quite apparent from that decision why it was that he refused the adjournment and also why it was that he gave no weight to the letter sent which was said to be that of his advocate. While it is true that at paragraph 59 when stating that "I was not prepared to adjourn and I was satisfied that the hearing could proceed without injustice to the Appellant", the judge does not set out his reasons for refusing to adjourn, nonetheless within the judgment itself it is clear why the judge took that view. The basis of the application for an adjournment (which had been refused by another judge prior to the hearing) was that the appellant had for the last four years been in a relationship with an EEA national but at the very last moment her mother had died and that she had had to travel to Portugal (according to the appellant) in order to deal with the aftermath of her death. Accordingly it would be unfair for the hearing to go ahead without the lady who was potentially a key witness. As the judge observed in his decision, this lady had not been mentioned either in his screening interview or indeed in his asylum interview. Although an explanation was advanced for that, the judge did not accept that explanation, which was a matter for him. Although in terms of her absence, the judge had been provided with a copy of the death certificate and a copy of travel documents, these suggested that she had gone to Luanda, which is in Angola, in Africa. The appellant, on the other hand, had repeatedly asserted that she was in Portugal. An explanation was given within the grounds, or at any rate within the submissions advanced in support of the grounds, that Angola had a prior colonial relationship with Portugal (until 1974 or 1975) but at paragraph 91, Judge Widdup specifically rejected this explanation as follows:

"91. It could be said that the Appellant's knowledge of Portugal and Angola is very limited but his evidence was that Ms De Sousa is in Portugal and not in Africa. While I accept that his knowledge of geography may be limited, it is wholly incredible that after a relationship of four years he would not have learnt that his partner's mother lived and then died in Africa and that this was where his partner had gone. The lack of knowledge of this on the part of the Appellant suggests that he knows very little about Ms De Sousa or her current whereabouts and that leads me to have considerable doubts about the nature of their relationship."
8. At paragraph 92, the judge also notes that in his witness statement the appellant did not even give the correct name of his alleged partner. He

said that her name was “Despuse” and he did not name her children or give their ages.

9. There are further matters which the judge referred to which he had been entitled to take into account when deciding that there would be no unfairness in proceeding with the trial in the absence of this witness. It was a bail condition of the appellant that he had to live in Luton which, on the face of it, was inconsistent with his evidence that he cared for his partner’s children in Harrow. His explanation was that he travelled from Luton to Harrow in order to take these children to school. However, as the judge notes at paragraph 94, “I note also that he made no mention in his witness statement of any child care responsibilities he is undertaking while Ms De Sousa is away”. Also, the judge was entitled to take account of the fact that it was quite extraordinary that this appellant, who apparently drove from Luton to Harrow every day in order to take his partner’s children to school did not seem to know either their names or their ages. Furthermore, the judge was also entitled to take account as he did of the facts that the appellant had “produced no documentary evidence of that relationship whatsoever” (at para 87) and also that he failed to provide any evidence from the school of the parental role that he now claims to have had. The judge also noted that although the appellant had claimed that he had mobile phone photos of his alleged partner he had overlooked the need to bring them to the hearing because (he said) they were on another mobile phone which he had left at home.
10. Further, there was no witness statement produced from the alleged partner herself, and, as already noted, although he claims that she was Portuguese, the passport, of which a photocopy was produced, shows that she had been born in Angola.
11. There were yet further reasons referred to by the judge for rejecting the appellant’s latest claim, when considering the claimed relationship between the appellant and his alleged partner in the context of the impact this would have on his Article 8 right to remain, the judge acknowledging that if he was entitled to be in this country as the partner of an EEA national exercising treaty rights, this would be relevant when considering whether it would be proportionate to remove him. In particular, the judge had in mind (at paragraph 26) that when in his asylum interview at question 132 and 133 he had been asked whether he had a partner or any children, he had said “no”, and the appellant’s explanation that “he thought he was being asked about a partner or children in Pakistan” and that “he had not mentioned either his partner or her children in either interview for that reason”. The judge considered but rejected that explanation, as he was entitled to do.
12. At paragraph 33 it was noted that the appellant had been asked why he had stopped reporting after his arrest, for which his explanation was that “he had kidney stones and his doctor advised him to rest at home” and that he had told his solicitors this. Although he claimed to have had evidence of his kidney problems before, rather unfortunately he no longer

had that evidence. Unsurprisingly, “he was asked why, if he was well enough to work in 2017, he had not been well enough to report”, to which his reply was that “he said he had to work to fill his stomach” and that “his pain had eased and a friend said he could work for him”. When the question was repeated, “he said he did not know. He thought his solicitor would deal with it”. Again, unsurprisingly, the judge was unimpressed with this answer also. If he was able to work, clearly he would have been able to report to the police.

13. There is one other reason which is also referred to within the decision as to why the judge could properly consider that the alleged relationship was not based in reality, which is set out at paragraph 41 of the decision as follows:

“41. I asked if his partner speaks Urdu. He said that she can only give a greeting. When asked how they communicate he said she speaks a little English and so did he”.

14. Accordingly, so far as the alleged relationship is concerned, we have only the appellant’s word for this, and this is the word of a person concerning whom substantive adverse credibility findings have properly been made. Although (inconsistently with his bail conditions) he claims to have taken her children to school, there is no evidence from the school regarding this, and he seemingly knows neither their names nor their ages. The couple have apparently been together for four years, but when asked previously whether he had a partner or any children he had replied “no”. They do not speak the same language. Most remarkably of all, he does not even know what continent his partner is from. There is further no witness statement from her.
15. In these circumstances, the judge was entirely justified in refusing him an adjournment on the basis that it was not in the interests of justice to further adjourn the case, therefore prolonging the applicant’s stay in this country when he has no arguable basis upon which he should be allowed to remain.
16. Regarding the second ground which is that the judge should not have attached little weight to the letter of the person claiming to be the appellant’s advocate (at paragraph 70) it is fair to say that during the course of his submissions, Mr Gajjar effectively abandoned this submission. No original copy of the letter was produced, and at paragraph 72, as in my judgement he was entitled, the judge took into account background evidence produced by the respondent which referred to the ease with which false documents could be obtained in Pakistan and also to the high number of FIRs which had been found to be totally baseless (at para 72). I refer to the translation of this document (or what is said to be a translation) which appears at page 50 of the appellant’s original bundle, which merely says as follows:

“Mr [AI],

I hope You will be in good position you have appointed me as Counsel for your Cases, But your Family is not living in Mandi Bahauddin, and not meet me. There are full dangrous time for you in Pakistan. Do not come back in Pakistan”.

This is then apparently signed by Mr Khani, said to be “Advocate High Court”. Even if genuine, this letter would be of no real assistance, and on the evidence which was before the Tribunal, the judge was entitled to find that the appellant’s asylum claim was completely hopeless.

17. I would mention one other matter as well which is this. Even if the appellant was in a genuine relationship with Ms De Sousa, at the very least I would have expected him either to have attended this hearing with her or at the very least to have made an application to adduce evidence from her once she had returned to the UK. Standard directions were given in this appeal (and the appellant’s solicitors would be aware of these directions in any event) whereby it is provided that if an error of law was found the Tribunal would then go on to consider the application without a further hearing if this was possible and that further evidence would only be entertained if an application had been made previously giving a reason why it had not been possible to call that evidence earlier. In these circumstances it was incumbent on the appellant to adduce any evidence on which he now sought to rely, and so even if I had found that the failure to grant an adjournment was an error of law, there would still have been no basis upon which I could have found in the circumstances that that error was material, or had I been remaking the decision that the decision should now be any different. But in any event, for the reasons I have already given, I do not consider that there was any error of law in the judge’s decision to refuse an adjournment. In the circumstances of this case, given all the evidence which the judge clearly took into account, it is hard to see how any judge could have allowed the appellant to put off yet again a decision that he had no right to remain in this country.

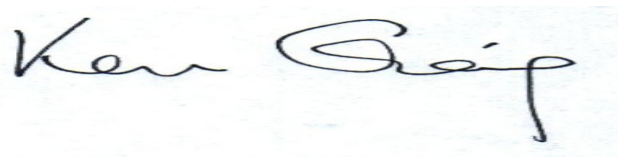
18. It follows that his appeal must again be dismissed, and I also find.

### **Decision**

There being no error of law in Judge Widdup’s decision, this appeal is dismissed, and Judge Widdup’s decision, dismissing the appellant’s appeal, is affirmed.

No anonymity direction is made.

Signed:

A handwritten signature in black ink, appearing to read "Ken O'Leary", is written on a light blue background.

Upper Tribunal Judge Craig

Date: 14 March 2018