



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/13697/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Glasgow
On 5 March 2018**

**Decision & Reasons
Promulgated
On 25 April 2018**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

I K

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Forrest, Advocate, instructed by Anderson Rizwan,
Solicitors

For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a decision by Judge Green, promulgated on 12 October 2017.
2. The grounds of appeal on which permission was granted are stated in the application dated 25 October 2017. They are directed firstly against the judge's treatment of a medical report:

[2] of the grounds - error in giving report no weight; self-reporting by the appellant no reason for doing so; extensive experience of the doctor in diagnosing PTSD;

[3] - doctor not present when torture allegedly inflicted, and reliant on appellant to tell the truth, no reason to give her conclusion no

weight; logical conclusion would be to undermine all medico-legal reports; doctor considered not only appellant's statements but interview records, physical scarring, her own observations and experience;

[4] - error in merely acknowledging the PTSD diagnosis, the doctor being a retired GP and not a psychiatrist; reasoning and experience behind diagnosis set out; failure to review author's credentials and to "provide weight";

[5] - finding appellant unreliable and evasive, without considering mental health issues and diagnosis identified in the report.

3. The grounds turn to:

[6] - misleading analogy about use of false identity, so "incorrect weight applied".

4. Mr Forrest sought to argue an additional ground:

The judge erred in law in his conclusions at [17] on both sufficiency of protection and internal relocation because (i) no or inadequate account was taken of the appellant's personal circumstances or the country circumstances and (ii) the authority relied upon, from 2002, takes no account of changing circumstances in Pakistan since then.

5. Mr Forrest realistically recognised that without the additional ground, the appeal was bound to fail on the findings at [17].

6. Mr Diwyncz agreed to the further ground being argued.

7. Mr Forrest submitted along the following lines. The judge said at [15] (ix), line 6, that he gave the report little weight, but that was only a polite way of saying in effect "no weight", as stated in terms at line 13. He misunderstood the doctor's method of taking a history and analysing its consistency with the appellant's claims. He did not factor the PTSD diagnosis into testing the reliability of the appellant's evidence. He drew an elaborate analogy on the use of false identity which led to an unjustified finding about the appellant's flight to safety in the UK. It was human nature to flee to a place of safety. The sufficiency of protection and internal relocation findings were brief and inadequate. They did not refer to the leading cases but made an odd reference to an outdated authority. The case should be remitted to the FtT.

8. Mr Diwyncz submitted thus. There was some apparent tension between saying that the medical report carried little weight or no weight, but in effect the judge found that the report, giving it face value, did not advance the appellant's case significantly. The grounds took the report out of context and said it should have been given such weight as to carry the day, which did not show any legal error and was only disagreement. There was nothing wrong with the overall adverse credibility assessment. The last two sentences of [17] said all that was needed about sufficiency of protection and internal relocation, which on their own were decisive issues.

9. I reserved my decision.

10. The case can be resolved by taking a step back from the rather minute criticisms of the description in the decision of the medical report and putting that matter in context. The furthest the report could realistically advance the case was by (a) consistency of scarring with reported ill-treatment and (b) a diagnosis of PTSD. Both were accepted. The judge does not treat the author of the report as anything but an expert in her proper area.
11. The veracity of the appellant's account was for the judge, taking the report in the round along with other considerations. The judge found for numerous reasons that the appellant failed to establish his contentions. In most of those reasons no error of fact or of law has been or could be alleged.
12. The judge found at [15] that the appellant's alleged fear did not explain lying about his qualifications to gain entry to the UK. With or without comparison with a German Jew fleeing the Nazis, the point is reasonable.
13. This was, realistically, a weak and belated claim of risk from the Taliban: see the summary of the refusal decision at [3] (i) - (xvii), and the judge's reasons in full at [15] (i) - (x). His conclusion at the end of paragraph 15 not shown to have turned on the making of any error on a point of law.
14. The choice of an old case to cite at [17] is odd. It is not a reported authority as country guidance or otherwise. However, the respondent's decision was clear and detailed on both sufficiency of protection and internal relocation. It was the appellant's case to make in the FtT. He does not suggest that the passage quoted from the case is no longer legally or factually accurate. More pertinently, he does not say that he advanced anything on sufficiency of protection and internal relocation which required any further analysis.
15. In short, the grounds and submissions have made the most of such materials as are to hand, but they do not amount to more than further insistence on a case which was more or less hopeless all along.
16. The decision of the First-tier Tribunal shall stand.
17. The FtT made an anonymity direction. There is no apparent need for one, but as the matter was not addressed in the UT, anonymity has been maintained.



Upper Tribunal Judge Macleman

6 March 2018