



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

Appeal Number: PA/09037/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 20 December 2018**

**Decision & Reasons Promulgated
On 14 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS

Between

**WAQAS AHMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Hyder of Westbrook Law

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Grimmett promulgated on 29 August 2018 dismissing the appeal against a decision of the Respondent dated 5 January 2018 refusing a protection claim.
2. The primary issue before the Upper Tribunal, pursuant to the grant of permission to appeal of First-tier Tribunal Judge Haria on 24 September 2018, is in respect of Judge Grimmett's decision to refuse an application to adjourn the appeal hearing. In the circumstances I do not propose to set out the background immigration history or substance of the Appellant's

claim for protection in detail: such matters are adequately set out in the documents on file, including in the Decision of the First-tier Tribunal.

3. It is pertinent to note, however, the following. The Appellant claims to have fled Pakistan and to have entered the United Kingdom on 14 February 2015 because he was at risk; the risk was based on events that occurred in 2012, and a telephone threat in respect of those events received in 2014. The Appellant only claimed asylum, however, after he was issued with a notice as an overstayer on 17 January 2018. A screening interview was conducted on 19 January 2018; a substantive asylum interview was held five months later on 19 June 2018. The Appellant's application was refused on 5 July 2018, and a Notice of Appeal lodged on 19 July 2018 with the assistance of legal representatives. The appeal hearing before the First-tier Tribunal took place on 20 August 2018.
4. At the appeal hearing on 20 August 2018 the Appellant appeared in person, unrepresented, and made an application for an adjournment. The application was refused and the appeal proceeded. In due course the appeal was dismissed for the reasons given in the Decision of Judge Grimmett promulgated on 29 August 2018.
5. Judge Grimmett dealt with the adjournment application in the Decision in the following way:

"The appellant sought an adjournment to obtain legal representation. He produced a fax from a charitable organisation which said that he did not qualify for legal aid and could not afford a representative. I could not see how an adjournment would benefit the appellant in those circumstances." (paragraph 6)

6. By way of further context it is helpful to note the following.
 - (i) On 25 July 2018 Burton & Burton solicitors, who had assisted the Appellant in lodging the Notice of Appeal, wrote to the Tribunal noting that the appeal was listed for 20 August 2018, stating *"we no longer represent"* the Appellant, and requesting that the Tribunal's records be updated accordingly.
 - (ii) Nottingham and Nottinghamshire Refugee Forum ('NNRF') wrote to the Tribunal by fax dated 31 July 2018 stating that they were *"a charitable OISC accredited organisation to level 3"*, and that the Appellant had presented himself to their legal department on 23 July 2018. On review, the senior adviser decided on 31 July 2018 that the *"appeal had no merit in pursuing"*. It was noted that the Appellant was not in receipt of legal aid and could not afford the cost of representation from his former legal representatives Burton & Burton. Accordingly NNRF had decided to assist the Appellant *"by submitting a request that the First Tier Tribunal to give him more time to prepare for the full hearing"*.

(iii) NNRF followed up the fax of 31 July 2018 with a further fax dated 8 August 2018, requesting a response.

(iv) The request to postpone the appeal hearing was refused by the Tribunal for reasons accompanying a reissued Notice of Hearing and Directions sent on 7 August 2018. Reasons were given in the following terms:

"An application for an adjournment has been made by the Nottingham and Nottinghamshire Refugee Form on behalf of the appellant to allow him more time to seek legal representation and prepare for his appeal.

I am refusing the request for an adjournment. There is still time before the hearing to prepare. The application says that the appellant does not qualify for legal aid and does not have his own means to fund representation. It is therefore unclear how the appellant intends to obtain legal representation, or that he will be able to within a reasonable timeframe. The Tribunal is a specialist body and is well versed in dealing with unrepresented appellants."

7. It may be seen that the substance of the Appellant's application before the First-tier Tribunal Judge on 20 August 2018 had already been considered and refused by the Tribunal prior to the hearing. I note from the record of proceedings that there was preliminary discussion in this regard between the Judge and the Appellant, and the Appellant indicated that NNRF had said they would send a further fax to the Tribunal on the morning of the hearing. The appeal hearing was 'put back' for any such transmission to be located and considered by the Judge. In the event it is apparent from the documents on file that NNRF did indeed send a transmission to the Tribunal on the morning of the hearing, but it was no more than a forwarding of the earlier letters of 31 July 2018 and 8 August 2018. In context it follows that it was to these matters that the Judge was referring when he stated that the Appellant had *"produced a fax from a charitable organisation"*.
8. In the premises, it seems plain that the Appellant had had adequate opportunity to gather and present any evidence upon which he wished to rely in support of his protection claim. He had been present in the UK for almost 3 years prior to making his application for asylum, during which time he could, had he been so minded, have made his claim and/or obtained any relevant supporting evidence. Moreover there was a five-month gap between the making of his claim and the substantive asylum interview - during which again he had the opportunity to gather any evidence. There was further opportunity between the interview and the decision, and necessarily between the decision and the date of the appeal hearing. Indeed, the Appellant did present documents in support of his case. Bearing in mind in particular that the key events upon which the Appellant based his claim had taken place in 2012, and that the only further event prior to his departure from Pakistan was by way of a

telephone threat, it is difficult to see what further documentary evidence the Appellant might have been minded to pursue had he had further time to prepare his appeal.

9. Although there does not appear to have been a witness statement presented on behalf of the Appellant, he had the opportunity of relating the basis of his claim during the interview process, and he also had the opportunity of further narrating his account at the appeal hearing. As was noted in the decision of 7 August 2018 refusing the written application for an adjournment, the Tribunal is well-versed with dealing unrepresented appellants.
10. Yet further in the premises it is apparent that the Appellant has had the benefit of legal representation at different stages in the proceedings. Any difficulty in obtaining a representative for the appeal hearing itself appears to have been a product of the lack of merit in the case and the concomitant non-availability of legal aid, and the absence of funding for private representation. In such circumstances – and in the apparent absence of the Appellant offering any sort of articulation to the Judge as to how he might secure representation in the foreseeable future – the Judge’s conclusion that, in substance, it had not been shown what would be achieved pursuant to an adjournment that would assist the Appellant, was, in my judgement, entirely sustainable – and frankly, inevitable.
11. The Grounds of Appeal to the Upper Tribunal make what are, in my judgement, essentially generalised assertions as to the possible value of an adjournment, without articulating anything specific on the facts of the instant case. For example, it is asserted without more that “*an adjournment was crucial for the appellant to prepare and present his case properly*”: there is no foundation on the facts here for such a submission. Indeed it seems to me that the Grounds are in essence a sequence of slightly different but essentially similar generalised assertions without any attempt to relate them to the particulars of the Appellant’s case, or otherwise to give them any real substance.
12. There was little by way of amplification of the grounds in the oral submissions before me. It was, again, emphasised that an asylum case required anxious scrutiny. Mr Hyder asserted that the Appellant had been trying to arrange funding for private representation through a friend which he had not been able to do by the date of the appeal hearing; it was suggested that he had obtained some financial support after the hearing. I can see nothing in the materials before the First-tier Tribunal, including a consideration of the record of proceedings, to suggest that the Appellant indicated that he thought that he could raise funds privately. Nor is there any evidence before me to found the submission in this regard: the Appellant has not filed any further evidence before the Upper Tribunal and did not attend the hearing.
13. The Respondent has filed a Rule 24 response dated 7 November 2018 opposing the appeal. It is noted that the Appellant had been able to

submit a bundle in support of his appeal, and that the Tribunal regularly dealt with litigants in person. Further, it is submitted: the fact that the appeal had not been previously adjourned did not oblige the Tribunal to adjourn on this occasion; and the grounds of appeal did not particularise in what way the Appellant had been disadvantaged by not having a representative.

14. In my judgement the First-tier Tribunal Judge is not to be impugned. The circumstances as presented to him did not suggest it was remotely apparent that the Appellant would be able to obtain any further representation notwithstanding the request to afford him the opportunity so to do. I find that it was fair to proceed, and that no unfairness or disadvantage has been visited upon the Appellant by requiring him to proceed with the appeal unrepresented. The Tribunal is used to dealing with unrepresented appellants: indeed, the Tribunal Service more generally is set up to provide ready and speedy access to justice without the usual formalities of other courts, notwithstanding the potential gravity of the subject matter. There is nothing to suggest that the First-tier Tribunal Judge did not guide the Appellant through the procedures in the usual way, or sought to elicit from him all that he wished to say in support of his appeal, or otherwise facilitated the Appellant's full involvement in the proceedings. I accept the Respondent's submission that the Appellant has not identified any specific disadvantage to him: his arguments are based on generalisations as to the perceived advantages of having a representative at the hearing. I cannot identify any procedural unfairness that has arisen by reason of the refusal to grant the adjournment.
15. For the avoidance of any doubt I am not remotely persuaded that the absence of any overt reference to the overriding objective in the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Regulations invalidates or otherwise renders the Judge's decision unlawful.
16. For completeness, I do not see any merit in the suggestion in the Grounds that the First-tier Tribunal Judge may have fallen into error of law in the overall evaluation of the merits of case. The grant of permission to appeal did not suggest that this line of challenge was arguable, and Mr Hyder did not develop it before me.

Notice of Decision

17. The decision of the First-tier Tribunal contained no error of law and stands.
18. The Appellant's appeal remains dismissed.
19. No anonymity direction is sought or made.

Signed:

Date: 12 March 2019

Deputy Upper Tribunal Judge I A Lewis

