



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

Appeal Number: AA081612015

THE IMMIGRATION ACTS

**Heard at Field House
On 20 June 2017**

**Decision & Reasons Promulgated
On 22 June 2017**

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

TA

(ANONYMITY DIRECTION MADE)

Respondent

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure
(Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the respondent herein is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Representation:

For the Appellant: Ms A Holmes, Senior Presenting Officer

For the Respondent: Mr A Maqsood, instructed by Maxim Law

DECISION AND REASONS

(Delivered Orally on 20 June 2017)

1. This is an appeal brought by the Secretary of State for the Home Department (“SSHD”) against a decision of First-tier Tribunal Judge Samimi promulgated (unfortunately) as long ago as 8 January 2016. The appeal was allowed on both Refugee Convention and human rights grounds, ostensibly on the basis that the Claimant, as a gay man, would be at risk upon return to Pakistan of suffering persecutory treatment and/or treatment in breach of Article 3 of the Human Rights Convention.
2. The SSHD appeals to the Upper Tribunal, with the permission of First-tier Tribunal Judge Kelly, on the basis that the FtT’s decision does not disclose a lawful adequacy of reasons for its conclusion that the claimant would be at risk in Pakistan. No challenge is brought to the First-tier Tribunal’s conclusion that the claimant is a witness of truth.
3. On an initial reading of the First-tier Tribunal’s decision I had some sympathy for the submissions made by the SSHD in her grounds, and broadly concurred with the terms of the grant of permission. This sympathy and concurrence swiftly disappears, however, on a further investigation within the file. Such investigation turned up Judge Samimi’s the Record of Proceedings which, unlike many, are typed and (at least in appearance) are a verbatim record of the hearing before her.
4. When one turns to the penultimate page of the judge’s typed Record of Proceedings the first relevant feature of note is that the SSHD’s closing submissions target in their entirety the credibility of the claimant – no submissions being made on the discrete issue of risk. The claimant’s submissions also focus on matters of credibility and then turn, very briefly, to internal relocation – there being reference to passages within the background documentation said to support the contention that there was no possibility of such relocation.
5. Of utmost importance, however, is what follows:
“PO: If the A is found credible - he is at risk of harm on return”
6. That concession, albeit not reflected in the FtT’s decision, leads to a clear understanding as to why the FtT’s decision lacks reasoning on the issue of risk. At the hearing I read out the relevant parts of the record of proceedings to the parties. Ms Holmes indicated she did not seek to challenge the accuracy of the record, or my understanding of it and that she had nothing else to add.
7. It seems to me read that in light of the concession made by the Presenting Officer before the First-tier Tribunal (which is clear from the face of the Record of Proceedings) the reasoning set out in the FtT’s decision is lawfully adequate. The FtT did not need to go into detail as the reasons the claimant would be at risk in Pakistan, once she had found him to be


credible, because this was - by the end of the hearing - not a matter in dispute between the parties.

8. It would have been helpful had the FtT identified the concession on the face of its decision. This would have saved much public expense and the claimant would have been granted the status he is clearly entitled to, well over a year ago. The fact that the concession is not recorded in the decision is not, however, an error capable of affecting the outcome of the appeal.

Notice of Decision

For these reasons the SSHD's appeal is dismissed. The First-tier Tribunal's decision stands.

Signed:



Upper Tribunal Judge O'Connor