



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/00066/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at North Shields
On 10th November 2017**

**Decision and Reasons
Promulgated
On 04th December 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

**MR.A.A
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs L Brakaj of Iris Law Firm.
For the Respondent: Mrs Pettersen, Home Office Presenting Officer.

DETERMINATION AND REASONS

Introduction

1. The appellant is a national of Pakistan, born in April 1980. He made a claim for protection in July 2016 on the basis he was at risk in Pakistan from his family because he is Sunni and his wife is Shia. He said they married in Pakistan in 2010 and when his family discovered of the relationship they were hostile. He and his wife came to United Kingdom in June 2011. The appellant returned to Pakistan for one month at the start of 2012 to see his father who was unwell. They now have two

daughters, born in July 2011 and July 2014 respectively. They are nationals of Pakistan.

2. The respondent refused his claim. The respondent did not accept the claim was true. His claimed fear was of his family and no Convention reason was engaged. The country information indicated the State would not persecute a Sunni Shia union.
3. His appeal was heard by First-tier Judge Handley and was dismissed. The judge did not find the appellant credible. He referred to his delay in claiming asylum. He pointed out the appellant had returned to Pakistan despite his claim to be in fear. The appellant had produced documents said to be summonses orchestrated by his family and sent to the United Kingdom by his brothers. The judge concluded the documents could not be relied upon. He questioned how his address in the United Kingdom could be known and why his brothers would warn him in this way. As an alternative, the judge concluded it was reasonable for the appellant to relocate within Pakistan.
4. At para 46 onwards the judge dealt with article 8. The judge referred to the effect of the decision upon the family unit, including his wife and their child. The judge referred to the appellant's daughter being three years of age. He stated that the child's best interests were to be with both parents and that their family life could continue in Pakistan. It was indicated she suffered from asthma but was generally well. The judge concluded the high threshold necessary to mount a claim on medical grounds was not met.
5. Permission to appeal was granted on the basis the judge referred to only one child whereas he has two. Permission was granted on the basis it was arguable the judge failed to consider the best interests of the elder child. Permission was not granted in respect of the judge's findings as to the appellant's credibility.
6. At hearing Mrs Brakaj pointed out that the eldest child was now six years old. The judge in referring to the youngest child, who was then three, said at that age she will be primarily focused on her parents rather than her environment. It was submitted that the elder child had now settled into life in the United Kingdom. The representative confirmed there were no particular features about the elder child.
7. In response, Mrs Pettersen pointed out the limited ground upon which permission had been granted. She submitted that the judge had anticipated the whole family going back together and the failure to mention the elder child did not make any material difference.

Consideration

8. The focus in the appeal was upon the claim to protection. The bulk of the decision is concerned with this and reflects the way the appeal was presented. This continues to be reflected in the leave application. It is correct that the judge consistently refers to only one child. However, it

is my conclusion that the failure to refer to the elder child and thereby consider her would have made no material difference. It was confirmed there were no unique features about the elder child which would have required further investigations. She was only two years older than her sister and at the time of hearing paragraph 117 B (6) was not met. Had it applied it was not necessarily determinative and the judge had concluded that family life could continue in Pakistan.

Decision.

The decision of First-tier Tribunal Judge Handley dismissing the appeal shall stand. No material error of law has been established

Deputy Upper Tribunal Judge Farrelly
10th November 2017