



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/01420/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 4 June 2018

Decision & Reasons Promulgated  
On 8 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

W A  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: No attendance by or on behalf of the Appellant  
For the Respondent: Ms K Pal, Senior Home Office Presenting Officer

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

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his 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.

## **DECISION AND REASONS**

1. This is a challenge by the Appellant against the decision of First-tier Tribunal Judge Asjad (the judge), promulgated on 18 December 2017, in which she dismissed the appeal against the Respondent's decision of 1 February 2017. This decision had refused the Appellant's protection and human rights claims.
2. In essence, the claims were based upon the Appellant's assertion that he had renounced his religion of birth, that being Islam, and he was at risk on return to Pakistan as a result. The Appellant's original appeal had been dismissed by the First-tier Tribunal by a decision promulgated on 7 April 2017. That decision was challenged, and by a decision of 11 August 2017 the Upper Tribunal found there to be errors of law, set aside the First-tier Tribunal's decision and remitted the matter.

### **The judge's decision**

3. Having set out the respective cases of both parties, the judge states her findings from [13] onwards. With reference to various aspects of the Appellant's evidence the judge finds that there were material inconsistencies, implausibilities, and other evidential problems such as to render the account incredible. The appeal was dismissed on all grounds.

### **The grounds of appeal and grant of permission**

4. With all due respect to their author, the grounds are lengthy and really rather discursive. In essence, they seek to challenge specific aspects of the judge's credibility findings.
5. Permission to appeal was granted by First-tier Tribunal Judge Keane on 19 March 2018. He comments that, "to a substantial degree the grounds amounted to no more than a disagreement with the findings of the judge". Notwithstanding that, he saw some merit in the assertion that the judge had failed to look at country information relating to Helmand Province when reaching her findings of fact. There is also the observation that the judge had not expressly referred to the burden and standard of proof in her decision.

### **The hearing before me**

6. Neither the Appellant nor his representative appeared at the hearing. I was satisfied that notice of hearing had been sent out to the last known address of the Appellant and to his representative, this having been done on 8 May 2018. There is no evidence

that the notices were returned to the Upper Tribunal, nor is there any correspondence from the Appellant relating to his inability to attend.

7. In respect of his representative, having checked the Tribunal's computer records, it became apparent that she had in fact contacted Field House on 31 May to indicate that she had been without instructions from the Appellant. She informed the administration that if no instructions were forthcoming by 1 June she would not attend the hearing. Her non-appearance before me is an indication that she remains without instructions.
8. I considered Rule 2 of the Upper Tribunal Procedure Rules and the core issue of fairness. I was satisfied that notice of hearing had been sent out and that that Appellant had not provided any good reason for his non-attendance. I concluded that it was fair for me to proceed in the Appellant's absence.
9. Ms Pal submitted that although the judge had not expressly referred to the burden and standard of proof there was nothing in her decision to indicate that she had made any legal error in the actual application of the relevant law to the evidence before her. In respect of the credibility findings Ms Pal submitted that the grounds amounted to nothing more than simple disagreements. The judge was fully entitled to find that significant inconsistencies and embellishments existed. Viewing the decision as a whole, the judge's decision was sustainable.
10. I reserved my decision.

### **Decision on error of law**

11. I conclude that there are no material errors of law in the judge's decision.
12. Given the nature of the lengthy grounds I do not propose to go through each and every point in detail. As we all know, decisions of the First-tier Tribunal should be looked at holistically and in a sensible manner. They are not to be subjected to unnecessary forensic examination. My essential reasons for concluding that there are no material errors are as follows.
13. The grounds appear to raise an issue of bias on the part of the judge. I reject this out of hand. There is no supporting evidence on this point whatsoever and no detail is provided in the grounds themselves. In my view it is poor practice to make such a serious allegation without even attempting to back it up in any way.
14. I see no procedural unfairness in any other respect.
15. It is quite apparent that the vast majority of the complaints raised in the grounds are simply disagreements with the judge's findings and do not identify any legal errors. Many of the points raised are in effect submissions that may have been made before the judge (or if they had not, should have been). Other paragraphs seek to explain away inconsistencies deemed by the judge to be significant.

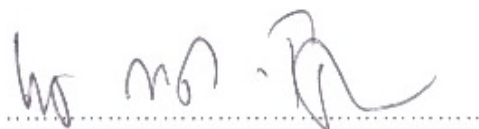
16. Having regard to the judge's decision itself, she clearly sets out what she regarded as material aspects of the evidence before her. On the face of the evidence there were indeed inconsistencies. The judge was entitled to place significant weight on these, weight being essentially a matter for the fact-finding tribunal. The judge was fully entitled to take account of the fact that the Appellant's evidence had changed from one source to another and over the course of time. The judge was fully entitled to take account of the timing of claimed events, including the issue of the fatwa (see [20]). Further, the judge was entitled to conclude that the Appellant's witness may well have acted in good faith, but had not provided evidence which was materially supportive of the Appellant's case overall. The judge's findings in relation to the alleged political opinion were fully open to her. It was also entirely open to her to reject the Article 8 claim.
17. There is nothing in the assertion that the judge failed to apply the correct burden and/or standard of proof. Although she does not expressly set a self-direction out in her decision, there is no indication in the text that such a basic element of the fact-finding process was somehow overlooked.
18. As regards the specific observation in the grant of permission, I can see no materiality whatsoever in the judge's failure to refer to country information on Helmand Province. The core reasons for rejecting the Appellant's account were based on internal inconsistencies and it is unlikely in the extreme that such information could have made any difference to the outcome.
19. For all of the above reasons the decision of the First-tier Tribunal shall stand.

### **Notice of Decision**

**The decision of the First-tier Tribunal does not contain material errors of law.**

**The decision of the First-tier Tribunal shall stand.**

I make an anonymity direction.



Signed

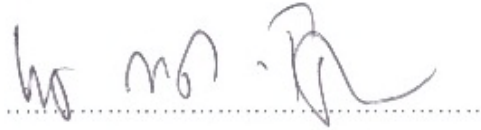
Date: 7 June 2018

Deputy Upper Tribunal Judge Norton-Taylor

**TO THE RESPONDENT**

**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

A handwritten signature in dark ink, appearing to read 'W. M. Norton-Taylor', is written over a horizontal dotted line.

Signed

Date: 7 June 2018

Deputy Upper Tribunal Judge Norton-Taylor