



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

Appeal Number: PA/03448/2017

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 13<sup>th</sup> February 2018**

**Decision &  
Promulgated**

**On 26<sup>th</sup> February 2018**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE M A HALL**

**Between**

**A K  
(ANONYMITY DIRECTION MADE)**

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant  
Respondent

**Representation:**

For the Appellant: Mrs A Heller of Counsel, instructed by JJ Law Chambers

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction and Background**

1. The Appellant appeals against a decision of Judge Fowell of the First-tier Tribunal (the FTT) promulgated on 12<sup>th</sup> October 2017.
2. The Appellant is a citizen of Pakistan born 12<sup>th</sup> February 1986. He arrived in the UK illegally on 29<sup>th</sup> September 2016. He made an asylum and human rights claim. He claimed that if he was returned to Pakistan he would face mistreatment from the Taliban, who had connections to his

family, who disapproved of the Appellant helping his sister leave Pakistan. In particular the Appellant claimed that his cousins are drug dealers and had connections with the Taliban and the police.

3. The application was refused on 24<sup>th</sup> March 2017 and the Appellant's appeal was heard by the FTT on 5<sup>th</sup> October 2017.
4. The FTT heard evidence from the Appellant and his sister. The FTT took into account the findings made in the appeal of the Appellant's sister. The FTT concluded at paragraph 58, that the Appellant's claim to have been captured by the Taliban was not true, and that he was not at risk from his two cousins, whether acting directly or through their claimed involvement with the police or the Taliban. The FTT's primary finding therefore was that the Appellant could return to his home area. The FTT however made an alternative finding, if it was found not to be safe for the Appellant to return to his home area, and concluded that there was a reasonable option of internal relocation to another area within Pakistan. The appeal was dismissed on all grounds.
5. The Appellant applied for permission to appeal to the Upper Tribunal relying upon six grounds which are summarised below.
6. Ground 1 contends that the FTT erred by making findings when it was apparent that the FTT found that the Appellant had supplied insufficient details. It was submitted that if the FTT had wanted more detail the Appellant's Counsel could have been made aware of this at the hearing, and asked further questions, or the FTT could have asked questions directly.
7. Grounds 2, 3 and 4 take issue with findings made by the FTT at paragraphs 47, 50, 51, 53 and 54. In brief summary it is contended that the FTT made an assumption that the only motive that the cousins had for detaining the Appellant was to obtain information from him. It was contended that the FTT had not taken into account that the cousins may want to kill the Appellant if he returned, even though eight years had elapsed, in the context of honour killings in Pakistan.
8. It was also contended that the Appellant's account was not inherently implausible and at paragraph 53 the FTT had referred to "a confusing mix of reasons", but it was submitted that at least one of these was enough upon which to base an opinion that the Appellant should leave.
9. Ground 5 contends that the FTT failed to consider whether there was a sufficiency of protection in Pakistan. Ground 6 contends that in considering internal flight the FTT referred exclusively to the Taliban and their ability to locate the Appellant. The FTT had not taken into account that the Appellant's sister's boyfriend had been killed in Quetta a city some 400 miles from the Appellant's home, and when considering internal relocation the FTT had failed to make any reference to the cousin's network of criminal associates spread throughout the country.

10. Permission to appeal was granted by Judge Hollingworth of the FTT who found the grounds arguable.
11. Following the grant of permission the Respondent did not lodge a response pursuant to rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008.
12. Directions were issued that there should be a hearing before the Upper Tribunal to ascertain whether the FTT had erred in law such that the decision should be set aside.

### **Submissions**

13. At the hearing Mrs Heller relied and expanded upon the grounds contained within the application for permission to appeal. I was asked to find that the FTT had materially erred in law, and as the errors related to credibility, the decision should be set aside and remitted to the FTT to be heard afresh with no findings preserved.
14. Mr Avery submitted that the FTT had not erred in law. It was submitted that the grounds amounted to a disagreement with findings properly made by the FTT, and the decision should stand.
15. At the conclusion of submissions I reserved my decision.

### **My Conclusions and Reasons**

16. I do not find that Ground 1 discloses an error of law. The burden of proof is on the Appellant. It is a matter for the Appellant as to what evidence is presented to the FTT. It is not for the FTT to make the Appellant's case. The Appellant was legally represented. There may be occasions when it is appropriate for the FTT to ask questions by way of clarification, but in this case documentary and oral evidence was presented on behalf of the Appellant to the FTT. The FTT reserved its decision at the hearing and thereafter considered the evidence. In my view the FTT was perfectly entitled to conclude, for the reasons given, that the burden of proof had not been discharged. The FTT did not err in law by failing to ask the Appellant to provide further evidence.
17. I deal with Grounds 2, 3 and 4 together. They do not disclose any error of law. These grounds display a disagreement with the findings made by the FTT. The findings made were open to the FTT to make, and adequate and sustainable reasons for those findings have been given.
18. I deal with Grounds 5 and 6 together. The FTT properly and adequately considered internal relocation at paragraphs 59 – 62. Reference is made to the appropriate case law at paragraph 60. The FTT considered the Appellant's mental health, noting the lack of any medical diagnosis, but taking into account a report that he was receiving counselling, and the opinion of his counsellor that he displays the symptoms of PTSD. The FTT

did not err in law in finding that if there was a diagnosis of PTSD, treatment would be available in Pakistan.

19. It is stated that the FTT did not consider the risk from the Appellant's cousins and their criminal associates. I note there was no reference to the cousins and their criminal associates in the Appellant's skeleton argument placed before the FTT and the skeleton argument concentrated on the Taliban, contending that their reach encompassed everywhere in Pakistan. It was also stated that the Appellant feared the authorities. There was no mention of the cousins in the skeleton argument.
20. I find that in relation to internal relocation, the FTT considered the appropriate authorities, considered the evidence that had been presented, and concluded that there was a reasonable option of internal relocation that would not be unduly harsh. Those findings, in my view, were clearly open to the FTT to make on the evidence, and sustainable reasons for those findings have been provided. There was therefore no need to go on and consider sufficiency of protection, because the primary finding was that the Appellant would not be at risk in his home area as his account had been found to be incredible, and the alternative finding was that he had a reasonable internal relocation option and would not be at risk.
21. In my view, the FTT properly considered all the evidence presented, made findings open to it on the evidence, provided adequate and sustainable reasons for those findings, and did not fail to take into account any material evidence. In my view, the grounds do amount to a disagreement with findings made by the FTT, but do not disclose a material error of law.

### **Notice of Decision**

The decision of the FTT does not disclose a material error of law. I do not set aside the decision. The appeal is dismissed.

### **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 the Appellant 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. This direction is made pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

13<sup>th</sup> February 2018

**TO THE RESPONDENT  
FEE AWARD**

The appeal is dismissed. There is no fee award.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

13<sup>th</sup> February 2018