



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/06960/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 11 June 2019**

**Decision  
Promulgated**

**On 4 July 2019**

**&**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN**

**Between**

**ZK**

**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms. D. Revill, Counsel instructed by Selva & Co.

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

**DECISION AND REASONS**

1. This is an appeal by the Appellant against a decision of First-tier Tribunal Judge Loke, promulgated on 30 January 2019, in which he dismissed the Appellant's appeal against the Respondent's decision to refuse a grant of asylum.
2. As this is an asylum appeal I make an anonymity direction, continuing that made in the First-tier Tribunal.
3. Permission to appeal was granted as follows:-

"In an otherwise careful and focused decision, it is arguable that the judge had misinterpreted the Appellant's replies in the asylum interview which

led the judge to wrongly make an adverse credibility finding in relation to the Appellant.”

4. The Appellant attended the hearing. I heard submissions from both representatives following which I reserved my decision.

### **Error of Law Decision**

5. I have carefully considered the grounds and decision. I find that the grounds of appeal are not made out. At the hearing Ms. Revill withdrew [15] and [16] of the grounds of appeal and I have given no consideration to these paragraphs.
6. The grounds of appeal submit that the Judge erred in his assessment of the evidence, with particular reference to Q79 to Q82 of the asylum interview as referred to at [17] of the decision.
7. In [7] and [8] of the grounds it is submitted that the Judge erred in finding at [17(a)] that MA was with the Appellant on the visit in 2007. The Judge states at [17(a)]:

“The appellant gives an account of being asked about his father and MA. MA was a person who was with him on that visit (Q79-83) of interview. The appellant states that MA was not arrested. Given the appellant was asked about MA, who was with him on the trip, I would have expected him to have been arrested as well.”

8. I have carefully considered Q79 to Q83 of the asylum interview and I find that the Judge has not misinterpreted the evidence, and there is no error in his findings. At Q79, having mentioned that “there was another guy – MA”, the Appellant was asked what were they asking about MA. His reply is recorded as “when I was in PAK I was hanging around with MA”. He was then asked again what they were asking him about MA. At Q80 and Q81 he was asked about MA being suspected of having hurt somebody.
9. At Q82 Appellant was asked when and what time he had spent with MA. His reply is recorded as “when I went PAK 2007 after finishing my studies my dad wanted me to study in a MADRASSA and MA was looking after me”. He then said that he did not study in the madrassa, and was asked “Then why did you hang around with MA - if you never went to the madrassa?”. He replied “My dad told him to look after me”. At Q83 he was asked whether MA was arrested with him and he said no.
10. I find that the Appellant’s evidence at Q79 to Q83 is that MA was with him on the visit to Pakistan in 2007. His evidence is that he hung around with MA. That is what the Judge has recorded. He found that MA was a person who was with the Appellant on his trip to Pakistan in 2007. The grounds of appeal are wrong when they state that the Appellant never said in his asylum interview that MA was with him on that visit. It is quite clear in the asylum interview that the Appellant said that during his trip to Pakistan in 2007 he was hanging around with MA. The Judge has not misread the

evidence. The Appellant was with MA in Pakistan in 2007, according to the evidence that he gave in his asylum interview. Given what the Appellant claims the authorities were asking him about MA, about him having “hurt someone really badly”, it was open to the Judge to find that he would have expected MA also to have been arrested.

11. At [9] of the grounds it is submitted that the Judge did not give any reasonable explanation for doubting the Appellant’s claim that he stayed with his uncle who worked for the intelligence agency. The grounds submit that it is perfectly possible that the Appellant’s uncle gave him refuge so that he was not arrested by the authorities.

12. At [17(b)] of the decision the Judge states:

“Given the appellant’s uncle was a member of the intelligence services, I do not find it credible that his uncle would have the appellant stay with him after having absconded.”

I find that the Judge did not need to say more than this. It is the Appellant’s evidence that he was on the run from the authorities, yet he claims to have stayed with his uncle who was a member of those same authorities. There is no error in the Judge finding that it lacks credibility that a member of the intelligence services would allow the Appellant to stay with him. As submitted by Mr. Avery there would have been serious professional issues for the Appellant’s uncle if it was discovered that he had been hiding the Appellant in these circumstances.

13. At [10] of the grounds there is no error of law alleged. Rather it submits that the Appellant meant to say something else regarding the FIR.

14. At [11] of the grounds it is submitted that the Judge erred as he found it inconsistent that the Appellant remained in Pakistan after his release, but this question was not put to the Appellant during the asylum interview or at the appeal hearing. At [17(d)] the Judge states:

“The appellant was released on 26 December 2007, however [he] did not fly to the United Kingdom until 15 February 2008. I would have expected the authorities to have made efforts in that period to have located the appellant. I would not have expected the appellant to have been able to obtain a student visa and leave the country in the circumstances.”

15. I find that there is no error of law here. It was open to the Judge to find that he would not have expected the Appellant to have been able to obtain a student visa and leave the country given his account. In relation to his uncle the grounds refer to Q77 of the asylum interview. All this states is the name of the Appellant’s uncle who the Appellant claimed had arranged both his releases. At Q78 the Appellant describes his uncle as a very resourceful man. This does not preclude the Judge finding that he would not have expected the Appellant to have been able to leave on a student visa.

16. At [12] of the grounds it states that the Judge did not engage with any explanation given at the hearing as to how the Appellant managed to escape. I was not referred to any such explanation by Ms. Revill. At [7] and [8] of the decision the Judge set out the Appellant's evidence in examination and in cross-examination. It is not alleged in the grounds of appeal that there is any error in these paragraphs, or that the Judge has failed properly to record the evidence. There is no reference in these paragraphs to any detailed explanation of how the Appellant managed to escape. The Judge records that the Appellant agreed that he left on his passport in 2007. The allegation that the Judge did not deal with detailed oral evidence is not made out.
17. At [12] of the grounds it again refers to MA. I have found above that the Judge did not err in his interpretation of the evidence of regarding MA given the Appellant's evidence that he hung around with MA in Pakistan in 2007.
18. The grounds allege at [12] that the Judge misunderstood that the Appellant was able to travel to the United Kingdom without coming to the attention of the authorities. The Appellant's evidence was that he left on his passport in 2007 as set out at [8(vi)]. The Judge has not misunderstood the evidence.
19. The grounds go on to allege that the Judge erred in judging the credibility of the Appellant on the wrong standards. I find that this ground is not made out for the reasons set out above. The Judge has not applied too high a burden of proof. He set out the evidence given at the hearing, which has not been challenged. He considered the asylum interview and he has not erred in his interpretation of the evidence given at the asylum interview. I find that the grounds are not made out. I further note that the grounds do not allege that there are any errors in the rest of the decision.

### **Notice of decision**

20. The decision does not involve the making of a material error of law and I do not set it aside.
21. The decision of the First-tier Tribunal stands.

### **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.

Signed

Date 30 June 2019

A handwritten signature in black ink, appearing to read 'Kats'.

**Deputy Upper Tribunal Judge Chamberlain**