



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: PA/08415/2018  
PA/14028/2018

**THE IMMIGRATION ACTS**

Heard at Bradford  
On 4 September 2019  
Prepared 4 September 2019

Decision & Reasons Promulgated  
On 16 September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MR A B (FIRST APPELLANT)  
MR Y B (SECOND APPELLANT)  
(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellants: Miss S Sanders, counsel instructed by The Manuel Bravo Project  
For the Respondent: Mr N Diwnycz, Senior Presenting Officer

**DECISION AND REASONS**

1. The Appellants, nationals of Morocco, dates of birth respectively 11 August 1985 and 1 April 1988, appealed against the Respondent's decision dated 1 April 2018 to refuse their protection claims. Their appeals came before First-tier Tribunal Judge A K

Hussain (the Judge) who, on 29 March 2019, dismissed their appeals on all grounds. Permission to appeal was given by Upper Tribunal Judge McWilliam on 14 June 2019.

2. The Upper Tribunal Judge, whilst expressing in the decision permission to appeal was granted, plainly set out her view that of the appeal grounds, Ground 1 did not disclose a discrete arguable error of law, but rather was a disagreement with the findings and an attempt to re-argue the case, but it was accepted that Ground 2 was arguable in the sense that the judge had not considered the documentary evidence in the round. Miss Sanders argues by reference to the case of *Safi & Ors* [2018] UKUT 388 that the Upper Tribunal Judge had failed to limit, if intended, the Grounds that could be argued and then give further reasons or repeat the same matter again in the reasons section of the permission. Whether there was force in that argument, it seemed to me *Safi*, and indeed the case of *Ferer* are to some extent demonstrably distinguishable, matters not because the case was presented as if permission had been generally given at large. I therefore, on the unopposed basis that that was put, have considered these grounds generally as invited to by Miss Sander.
3. It was sufficient to say that the Judge makes very considerable use of the expression that 'for reasons that have already been given' he reached certain adverse credibility findings or conclusions on the claim. The Judge also never clearly, I find, particularised what those reasons were that he was tangentially referring to from time to time in the decision. It also seemed to me that the Judge had fairly, freely used the expression that 'matters made no sense' to the Judge when it is less than clear why they did make no sense when there was an absence of sufficiently particularised reasons. Unhappily various other expressions are used to identify the fact that the Judge plainly did not accept the evidence of the First Appellant. It was less than clear to what extent he was rejecting the evidence of the Second Appellant. It therefore was somewhat infelicitous for the Judge to refer to parts of the claim as being 'slightly comical' and not credible when this was plainly an important matter to the Appellants. Similarly, although it seemed to me the Judge was not evidently

to be criticised, he was presented with documents which whilst it seemed to him face to show contradictions may not have been discrepant.

4. It may well be that on a further consideration of this matter the documents referred to at D37, D38 are not inconsistent, but I express no view upon that, but there was sufficient doubt raised by the issue to again give rise to a concern about the sufficiency of the reasons or their adequacy as given by the Judge. The documents were at the heart of the protection claim. Plainly there were matters, for example, with reference to Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 which may have some merit, but they are but one factor. Rather the impression given by the language used by the Judge having concluded, was that because he did not believe the Appellants, he then dismissed documentary evidence adduced to support their claim as to aspects of the events that were involved.
5. It seemed to me therefore that this was a case where, even if one could try and ascertain exactly what adverse findings were being made on different aspects of the claim, it would be inappropriate to cherry pick within this decision which lacks the adequacy and clarity that was required. Accordingly, I conclude the Original Tribunal's decision discloses material errors of law in terms of the adequacy and sufficiency of reasoning and therefore the Original Tribunal's decision cannot stand.

### **NOTICE OF DECISION**

6. The Original Tribunal's decision does not stand. The matter is to be returned to the First-tier Tribunal to be remade in accordance with the law.

### **DIRECTIONS**

- (1) List for hearing not before Judge A K Hussain nor before Judge Pooler.
- (2) Time estimate – three hours.
- (3) African Arabic interpreter required.
- (4) Appellants and Respondent's bundles to be provided for the further hearing.

- (5) Any skeleton arguments and case law relied upon to be notified to the parties and the IAC First-tier Tribunal not later than ten clear working days before the further hearing.
- (6) Any further directions sought to be made in writing to the First-tier Tribunal.
- (7) List for hearing in Bradford.

**ANONYMITY**

An anonymity order is made.

A handwritten signature in black ink, appearing to read 'T. Davey', written in a cursive style.

Signed

Date 11 September 2019

Deputy Upper Tribunal Judge Davey