



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

Appeal Number: PA/52715/2020  
UI-2021-001440; IA/00024/2021

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 31 August 2022**

**Decision & Reasons Promulgated  
On 30 December 2022**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM  
DEPUTY UPPER TRIBUNAL JUDGE METZER KC**

**Between**

**FB  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr J. Collins, instructed by J McCarthy solicitors

For the Respondent: Ms S. Cunha, Home Office Presenting Officer

**DECISION AND REASONS**

**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 her or any member of her 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.

1. The Appellant is a citizen of Pakistan. Her date of birth is 4 February 1986. The First-tier Tribunal made a direction to anonymise the Appellant. In the light of the protection and mental health issues raised, it is appropriate for this to continue to avoid identification of the Appellant.
2. In a decision of 17 January 2022 the First-tier Tribunal (Judge I D Boyes) granted the Appellant permission to appeal against the decision of the First-tier Tribunal (Judge Kinch-“The Judge”) to dismiss her appeal under Article 3 (health grounds) ECHR.
3. We have found that the Judge did not err for the reasons we will explain. The Home Office emailed the UT on 31 August 2022, after the hearing, stating that the Appellant attempted suicide after the hearing before the First-tier Tribunal. There was evidence of this before us which was not material to the error of law decision. The Home Office asked whether it was possible to be updated with the outcome of the appeal once it is received. At our request, the UT put the author of the email on notice of the decision so that any necessary precautions could be put in place.
4. The Appellant’s case before the First-tier Tribunal was that she has been ostracised by her family in Pakistan and was at risk on return from them and her ex-husband, a wealthy individual with political contacts. The Appellant’s appeal was dismissed on protection grounds. There is no challenge to this decision. The Appellant relied on Article 3 ECHR on the basis that she was at risk of suicide should she be forced to return to Pakistan.
5. The Appellant’s appeal was dismissed by the First-tier Tribunal in 2013. The Appellant made further representations to the SSHD which gave rise to the decision which was the subject of the appeal before Judge Kinch.
6. The Judge stated that her starting point was the findings of the First-tier Tribunal (Judge Morris) in 2013. Judge Morris had rejected the Appellant’s account “in every material particular”. Judge Morris found that there was no real possibility that the Appellant was in a relationship with K in the UK which the Appellant claimed had caused disgrace to her family in Pakistan and was the reason why her parents forced her into an arranged marriage (to E) in 2012. Judge Morris did not accept that the Appellant had been forced to marry E as claimed and therefore it was not accepted that she had had to escape from him, or that she was at risk from him or her own family. It was not accepted by Judge Morris that the Appellant had been ill-treated either mentally or physically by her own family and it was found that she would not be at risk should she return to Pakistan. Permission was refused by the First-tier Tribunal and Upper Tribunal against the decision of Judge Morris.
7. The Judge identified at [39] that the Appellant’s case focussed primarily on the medical evidence. The judge had before her a letter of 5 March 2020 from Dr Francesca Ducci, Consultant Psychiatrist with the Wandsworth Early Intervention in Psychosis Service (“WEIS”) which confirmed that the

Appellant had been under the care of the team since 17 November 2017. Dr Ducci confirmed that the Appellant suffered from psychotic depression as well as other physical complaints and that she had engaged with psychological therapy. Dr Ducci said that the Appellant has on multiple occasions had suicidal ideation, especially when exposed to stress. The Appellant was admitted to hospital because of suicidal behaviour in December 2018. The Judge recorded at [40] that Dr Ducci said that the Appellant's mental state had improved with treatment and that she had been more stable for the last couple of months although she remained vulnerable and at risk of mental health relapses and suicidal behaviour. In relation to the medical evidence the judge noted at [45] that Dr Tandon stated in his report of 21 May 2021 that "it is clear from the information available that [the Appellant] has gone through distressing and traumatic experiences in relation to the forced marriage and subsequent threats made against her by her husband and her own family".

8. The Judge recorded the closing submissions made by the Home Office Presenting Officer, namely that Dr Tandon did not indicate that he had read the previous determination of Judge Morris or indeed the SSHD's reasons for refusal and appeared to have taken at face value the Appellant's account of her background. The judge accepted this submission and concluded that whilst it did not undermine the veracity of the medical diagnosis confirmed by Dr Tandon, the medical evidence did not add any credibility to the Appellant's account of having been in a relationship with K in the UK, and forced by her parents into marriage to Mr E, a marriage from which she subsequently fled.
9. The Judge set out the relevant law at [63] - [68]. She made findings as follows:-

"70. In considering Dr Tandon's report, I have had regard to Section 10 of the Practice Directions for the Immigration and Asylum Chamber of the First-Tier Tribunal and Upper Tribunal. I note that Section 10.1 requires an expert to be provided with clear and precise instructions, together with 'all relevant information concerning the nature of the Appellant's case, including the Appellant's immigration history, the reasons why the Appellant's claim or application has been refused by the Respondent...'

71. Dr Tandon was asked to comment on 'the effect a removal to Pakistan would have on [the Appellant's] mental health.' In response to this question, Dr Tandon records 'It is clear from the information available that [the Appellant] has gone through distressing and traumatic experiences in relation to the forced marriage and subsequent threats made against her by her husband and her own family. [The Appellant] is also of the view that she would be unlikely to get any appropriate mental health input in Pakistan. This may include access to prescribed medication. Under these circumstances, it can be anticipated that her mental state would deteriorate further with worsening in her mood and increase in experience of auditory hallucinations. Altogether this would increase her risk of self-harm/suicide.'

72. Dr Tandon was also asked to comment on whether removal to Pakistan would cause a serious, rapid and irretrievable decline in the Appellant's state of health resulting in intense suffering. To this question, Dr Tandon notes '[the Appellant] has made it clear that she is fearing for her life and is extremely concerned about the prospects of being returned to Pakistan due to the threats issues against her by her husband and her own family. This coupled with not being able to access appropriate mental health input in Pakistan, including access to prescribed medication, could result in a significant deterioration in her mental health and a relapse into psychotic depression. This would also increase risk towards self and increase the risk of self-harm/suicide.'
73. I accept Ms Navarro's analysis that it appears that Dr Tandon has taken the Appellant's account of her background, and the availability (or lack thereof) of mental health treatment in Pakistan, at face value. Dr Tandon does not state in their report that they had read the previous determination of Judge Morris, or the Respondent's Reasons for Refusal Letter. Dr Tandon states that it is 'under these circumstances' (as set out to her by the Appellant) that it could be anticipated that the Appellant's mental health would deteriorate if she were to return to Pakistan. However, as set out above, the Appellant's account of her claimed forced marriage was comprehensively rejected by Judge Morris, and the additional evidence adduced by the Appellant has not led me to depart from that finding. Furthermore, as was accepted on behalf of the Appellant in closing submissions, the medication that the Appellant currently receives is available in Pakistan.
74. Whilst there is no doubt that Dr Tandon is qualified to give evidence regarding the Appellant's diagnosis and care plan, there is no evidence before me to suggest that Dr Tandon has any knowledge of, let alone expertise in, the healthcare system in Pakistan, or its availability. As such, while I accept entirely Dr Tandon's diagnosis of the Appellant, the assessment of the Appellant's presentation and the medication and care plan that has been put in place, having taken into account all of the evidence in this case, I find that I am unable to place full weight on Dr Tandon's conclusion that there could be a 'significant deterioration' in the Appellant's mental health if she were to return to Pakistan, because that conclusion is based on incomplete information, and Dr Tandon's report does not comply with Section 10 of the Practice Direction.
75. I also note that whilst Dr Tandon finds there would be an increased risk of self-harm and suicide, if the Appellant were to be removed to Pakistan, Dr Tandon does not state what that level of risk would be. Even in the event that the Appellant did suffer from a 'significant deterioration' in her mental health, there is insufficient evidence before me to be able to find that this would be such that the Appellant would go from having suicidal ideation that is 'fleeting' to being at immediate and high risk of self-harm or suicide, or meeting the threshold of Article 3 cases confirmed in AM.

76. The CPIN Pakistan: Medical and healthcare provisions (September 2020) makes it clear that Venlafaxine and Olanzapine are available in Pakistan. However, as Mr Collins stated in closing submissions, the Appellant's case is that the care that would be available to her in Pakistan would be 'manifestly inadequate' given the Appellant's vulnerability and the mental health conditions that she suffers from. Mr Collins noted that the Respondent had accepted in the refusal letter that there may be a decline in the Appellant's mental health if she were to be removed to Pakistan, and yet, he argued, the Respondent had not considered what the ramifications of the accepted decline were.
77. As set out in the CPIN, the healthcare system is delivered by both the public and private sector. Healthcare delivery can suffer from limited access to quality healthcare services. Mr Collins acknowledged that the CPIN confirms that free healthcare is available to all citizens in Pakistan, but that around 78% of the population pay for healthcare, and Mr Collins submitted that it was difficult to see how the Appellant would be able to do that on an ongoing basis.
78. At 4.12.1 of the CPIN, it states that there are eleven psychiatric hospitals in Pakistan, with 800 psychiatric units in general hospitals and 78 residential care facilities offering inpatient care. There are also 3,729 outpatient mental health facilities in the country, and 624 community-based (non-hospital) psychiatric outpatient facilities. It goes on to state that mental health care is mainly provided by the public sector.
79. I accept that if the Appellant were to be removed to Pakistan, that there is likely to be some deterioration in the Appellant's mental health, and that this is likely to impede the Appellant's ability to look for work, until her condition improves. However, in circumstances where the Appellant's account of being threatened by her family has been entirely rejected as incredible, it is reasonable to assume that the Appellant would be likely to receive at least some assistance from her family on her return to Pakistan. There is no evidence before me of the Appellant's family's financial situation, and so I do not know whether any of her family members or friends would be able to provide financial assistance to pay for private healthcare or medications. However, it would be reasonable to assume that some support would be available to the Appellant to access the free healthcare and mental health services that are available in Pakistan. On the evidence before me, I am satisfied that there is sufficient medical treatment available in Pakistan to meet the Appellant's mental health requirements, and further, that such treatment would be reasonably accessible to the Appellant because support would be available to the Appellant. I am satisfied that the Appellant's mental health condition could be appropriately managed in Pakistan.
80. I have applied the facts as I have found them to the relevant legal framework I set out above. Dr Tandon states that the Appellant is diagnosed with psychotic depression, and at the time of assessment, was presenting as in 'mild low mood, anxiety,

fleeting suicidal ideation'. I accept that the Appellant's prescription was increased the week before the appeal hearing, but there was no evidence before me to suggest that the Appellant's condition had deteriorated to such an extent that she would now be considered a high risk of self-harm or suicide. Nor is there any evidence before me that the Appellant's mental health is not being adequately managed with the increased dose of medication.

81. The first test in J requires me to make an assessment as to the severity of the treatment that the Appellant will suffer if removed, which must attain a minimum level of severity. I find that the Appellant's mental health condition, as assessed by Dr Tandon, although serious, currently falls some way short of reaching the minimum level of severity referred to in AM. For the reasons set out above, the medical evidence before me is not sufficient to establish that any deterioration in the Appellant's mental health that may arise as a result of her removal to Pakistan would be likely to reach the minimum level of severity either.
82. I do accept, however, that if in fact a very significant deterioration in the Appellant's mental health were to occur after she were removed to Pakistan, that deterioration would likely have been caused as a result of the Appellant's removal from the UK. I note the third and fourth tests in J and that an Article 3 claim can in principle succeed in a suicide case, and also that the threshold is particularly high.
83. In respect of the fifth test in J as reformulated in Y, I am satisfied that the Appellant's fear of ill-treatment in Pakistan, on which the risk of suicide is said to be based, is not objectively well-founded. I have already found that the Appellant is not at risk from her family members, and that in those circumstances, it is reasonable to believe that they would help her to access the mental health treatment she would require on return to Pakistan. I have already set out why it is that I have found that the medical evidence in this case is not sufficient to satisfy me that there is a real risk of a completed act of suicide arising from impulses that the Appellant cannot control because of her mental state R (Carlos) v SSHD [2021] EWHC 986 (Admin) considered. I find, having considered the evidence before me as a whole, that the medical treatment available in Pakistan would be adequate to manage the Appellant's mental health condition and reduce the risk of suicide (test 6 in J considered).
84. Taking all of the evidence in this case into account, I find that the Appellant has not adduced sufficient evidence to satisfy me that there are substantial grounds to believe that she would face a real risk, 'on account of the absence of appropriate treatment in the receiving country or the lack of access to such or being exposed to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering or to a significant reduction in life expectancy...' I find that the high threshold required in Article 3 health cases has not been met in this case."

10. The first ground asserts that the Judge erred because she speculated when concluding that it is reasonable to believe that the Appellant's family would help her. It is asserted that this is nothing more than conjecture in the light of there being no evidence before the First-tier Tribunal relating to her family's financial circumstances. There was no evidence whatsoever in relation to the Appellant's family other than that she had not had contact with them since 2014. This part of the evidence was not challenged by the SSHD. In oral submissions Mr Collins said this was a freestanding ground. The Judge's finding was entirely speculative and she was not entitled to conclude that the Appellant's family in Pakistan would alleviate risk of suicide. In submissions, Ms Cunha drew our attention to [85] and [86] of the decision where the Judge made findings in respect of the Appellant's family albeit within the assessment under Article 8. At [86] the judge said that the Appellant's reasons for asserting that she would not have family support have been rejected.
  
11. Mr Collins described the second ground of appeal as 'subsidiary' and conceded that it could not stand if he was not successful in persuading us that ground one was made out. Ground 2 asserts that the Judge did not consider subjective fear that the Appellant may have on return to Pakistan. Mr Collins relied on MY (Suicide risk after Paposhvili) [2021] UKUT 00232, specifically [27], [130] and [139]. Furthermore, the Judge's approach to the medical evidence is generally flawed. At [75] the Judge found that there was insufficient evidence to find that the Appellant would go from fleeting suicidal ideation to immediate or high risk. This ignored that the Appellant had attempted suicide in the past and that the risk is presently managed and ameliorated because of the comprehensive and in-depth support available to the Appellant, not just the prescription medicine she takes which on the face of it is available in Pakistan. Mr Collins relied on the evidence of Dr Francesca Dutti in her report of 25 July 2018:-

"[The Appellant] has achieved a remarkable improvement and is responding well to the pharmacological, psychological and social support offered by the Early Intervention Model. Her mood has improved and she is not currently reporting suicidal thoughts despite times she can feel low. She remains vulnerable to stress and we have observed that her psychotic symptoms and suicidal ideation worsen when she is under stressful circumstances."
  
12. It was submitted that the volatility and fluctuation in the Appellant's mental health was clear from the evidence that was before the First-tier Tribunal including the evidence of Registered Mental Health Nurse Hazel Nash dated 29 December 2018:-

"[The Appellant] was transferred to Lotus Assessment Suite following an assessment by Wandsworth Early Intervention Service where she disclosed escalating thoughts of suicide by walking into traffic and exacerbation of auditory hallucinations. Her care coordinator was concerned that [the Appellant's] mental state had deteriorated since Friday 21 December, without any apparent reason. She was agreeable to a period of further assessment to explore her needs and

an opportunity to agree appropriate follow-on care before returning to the community.”

13. Dr Tandon in his report referred to “fleeting thoughts of suicide. He stated as follows:-

“With regards to her current mental health, [the Appellant] says that when she is not fearful of being returned to Pakistan she feels alright. However, thinking about the prospect of going back to Pakistan makes her anxious and suicidal. A few nights ago, she felt worse and had to call a helpline to get support. [The Appellant] says she is able to get some support from one of her flatmates and she also has a friend who sahe (sic) is able to talk to over the phone. [The Appellant] says that she experiences fleeting thoughts of suicide at times and a few nights ago had thoughts of taking an overdose, although did not act on them and called the helpline instead. On direct questioning she did not have current suicidal intent or plans.”

### *Conclusions*

14. There is no error of law identified in the grounds. In respect of the Appellant’s family, we consider that the Judge was unarguably entitled to conclude that she would have their support. The Appellant’s account of ostracism and fear of her ex-husband was wholly rejected by the Judge. In this context, it does not, in our view, amount to speculation that they would support her. Having rejected the core of the Appellant’s account about her family, it was not for the Judge to consider an alternative account not advanced by the Appellant, namely that they would not be able to support her for any reason. The Judge rejected the evidence of the Appellant of her family. That is clear from the Decision as a whole and it is spelt out by the Judge at [86]. Having rejected the Appellant’s account in its entirety, in our view, she was entitled to conclude that the Appellant would have the support of her family which would alleviate any suicide risk. For this reason the decision of the Judge is lawful and does not require our interference.
15. The second ground is wholly dependent on the first. We will therefore only briefly engage with it because it is not material to our decision. The Appellant’s case was not advanced on the basis that absent an objective fear the Appellant genuinely had a subjective fear of returning to Pakistan. The Appellant’s account of a forced marriage and ostracization by her family was unequivocally twice rejected by the First-tier Tribunal.
16. Dr Tandon stated that there was no evidence of paranoid or persecutory ideation of a delusional nature. He concluded that there was no thought disorder, passivity phenomenon or psychotic features. There was nothing in the evidence before the First-tier Tribunal capable of supporting that this Appellant was delusional to the extent that she genuinely believed the account that she had given the Tribunal. Reliance on MY is misconceived. The Appellant in MY was a schizophrenic at significant risk of suicide. There was medical evidence that he had expressed a subjective belief that



others wanted to kill him. The medical evidence before the Tribunal in MY disclosed a subjective fear of return and the Tribunal found that even if treatment was available it would not be accessible to the Appellant, who would face destitution and poverty. The Appellant in MY had reduced cognitive skills and poor memory. He had been found to be at high risk of violence to himself, which the Tribunal accepted.

17. We conclude that the Judge understood and factored the medical evidence into the assessment of risk on return. She took into account that in March 2020 Dr Ducci noted that the Appellant had on multiple occasions had suicidal ideation, especially when exposed to stress (see [40]). The Judge also noted that she had been admitted to hospital because of suicidal behaviour in December 2018. However, Dr Ducci had noted that her mental state had improved with treatment. The Judge took into account a letter from WEIS on 9 June 2020 where Dr Ducci recorded that the Appellant's diagnosis of psychotic depression was in remission and that her mental state was stable. Dr Ducci noted that relapses in the Appellant's mental health were triggered by loneliness, social stressors such as not being entitled to benefits. It was considered that at this time she presented a low risk to herself although it was noted that when she is unwell and stressed she can have suicidal thoughts.
18. The most recent medical evidence before the Judge was that of Dr Tandon who described the Appellant's mental state as presenting with a mild low mood, anxiety, fleeting suicidal ideation and intermittent experience of auditory hallucination. He noted that her mental state appeared relatively stable although she remained vulnerable to a resurgence of symptoms due to ongoing stressors (see [43]). Dr Tandon said that the Appellant "continues to experience fleeting thoughts of suicide and recently had thoughts of taking an overdose, but did not act on them or plan anything. She sought help by calling a helpline. She is able to keep herself safe and did not have current suicidal intent or plans."
19. We consider that the Judge was entitled to reject Dr Tandon's conclusion that there would be a "significant deterioration" in the Appellant's mental health should she return to Pakistan. She was entitled to conclude that there was insufficient evidence before her to find that the Appellant would go from having suicidal ideation that is fleeting to being at immediate and high risk of self-harm or suicide or meeting the threshold of Article 3 cases confirmed in AM (Zimbabwe) 2020 UKSC 17 . There is no challenge to the application of AM. Whilst the Judge accepted that there is likely to be some deterioration in the Appellant's mental health ([79]), she was entitled to infer that this would be mitigated by assistance from her family. The findings of the Judge are grounded in the evidence and adequately reasoned.

## **Notice of 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 her or any member of her 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 Joanna McWilliam  
2022

Date 14 September

Upper Tribunal Judge McWilliam