



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003496
UI-2022-003497
UI-2022-003499
UI-2022-003500
First-tier Tribunal No: PA/52326/2021
PA/52328/2021
PA/52327/2021
PA/52329/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 26 September 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**SBN
MU
KAR
TAA**

(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Hussain of Maya Solicitors.

For the Respondent: Mr Tan, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 8 September 2023

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Sills ('the Judge'), promulgated following a hearing at Bradford on 4 March 2022, in which the Judge dismissed the appeals of the above appellants.
2. The appellants are all citizens of Bangladesh. The first appellant was born on 20 June 1964. His wife who was born on 2 October 1966 and their son born on 25 November 2004 are dependents on his claim. The appellant and his wife have three adult daughters, the second appellant born on 1 November 1996, the third appellant born on 31 January 1999, on fourth appellant born on 2 February 2002. They each made separate claims for asylum but were linked and considered by the Judge as their cases arise from the same factual matrix.

3. The Judge, in a very detailed and carefully constructed determination analyses the evidence, both written and oral, before setting out his findings.
4. The Judge identifies in the determination a number of inconsistencies and concerns arising from the evidence in relation to the first appellant's alleged criminal conviction in Bangladesh, which were found by the Judge to be "highly problematic". As a result, the Judge did not accept the appellants' alleged difficulties in Bangladesh were experienced by any of them, does not find the documentary or witness evidence to be reliable, does not accept the first appellants evidence regarding how wounds that he has were inflicted, and comprehensively rejects the credibility of the claims leading to all the appeals being dismissed on protection grounds.
5. The Judge thereafter considers Article 8 ECHR, noting no submissions were made on the same, but finding in any event that there is no basis for allowing the appeals on human rights grounds, either within or outside the Immigration Rules.
6. The appellants sought permission to appeal relying on two grounds. Ground 1 asserted the Judge erred by failing to take into account important evidence which was submitted by the appellants' representatives when determining the appeal. This is a reference to 13 videos which it is said were sent to the Tribunal in support of the appeal, and which were acknowledged by the First-tier Tribunal on 14 February 2022, but which were either ignored or not properly considered by the Judge when determining the appeal as there is no mention or reference to any of the material in the determination.
7. Ground 2 asserts the Judge erred when assessing credibility, claiming the Judge's findings are based upon demeanour as set out at [21] of the determination, which is not permitted.

Discussion and analysis

8. The appellants' applications for permission to appeal were refused by another judge of the First-tier Tribunal and renewed to the Upper Tribunal on two grounds. Upper Tribunal Judge O'Callaghan, in a decision dated 1 August 2022, granted permission to appeal on both grounds. For some reason the renewed application was also referred to Upper Tribunal Judge Grubb who, in a decision dated 23 September 2022, granted permission on Ground 1 only.
9. The appeal came before Upper Tribunal Judge Reeds sitting at Bradford for an Error of Law hearing who, with the assistance of the representatives, identified the anomaly. Directions were given that the matter was to proceed on the basis of Judge O'Callaghan's grant on both Grounds 1 on ground 2. I believe that approach must be correct as the Upper Tribunal will have arguably been *functus officio* after the first decision.
10. Judge Reeds was also advised that the video recordings that formed the core of Ground 1 had not been seen by the advocates. Directions were therefore given for disclosure of this information and the matter adjourned. The case therefore comes back before me for the purposes of ascertaining whether the Judge has erred in law and if any error made is material to the decision to dismiss the appeal.
11. Having had the advantage of considered in detail the First-tier Tribunal's case management system, so far as it relates to this appeal, I agree that on 14 February 2022 a caseworker has made an entry noting the receipt of the video items which were uploaded onto the Tribunal's case management system.
12. Within the appellants' appeal bundle is a skeleton argument dated 9 December 2021 which makes no mention of the video evidence, although it is noted this document predates the filing and uploading of the same.

13. An original and supplementary appellants' bundles were also provided for the purposes of the hearing, and on 24th February 2022 is an entry recording that the hearing bundle was created for the Judge.
14. The advocates were referred by me to [28] the Judges decision in which he wrote:
 28. I have considered the photographs submitted by the Appellants. The significance of some of these is obvious, such as the pictures of A and his son having received medical treatment, and A attending demonstrations in the UK. The significance of the other photographs was not pointed out to me that the hearing. I consider this evidence in the round.
15. It was confirmed by Ms Hussain that there was no separate bundle of photographic evidence other than the video evidence and that a number of those items were, in effect, photographic stills.
16. I find [28] is a clear indication that the Judge was not only aware of but also considered the video evidence he is accused of not having considered, and having also factored that evidence into the decision-making process.
17. Ms Hussain referred to some of the photograph showing the appellant and his son having received medical treatment as they have bandages. That may be so, and the Judge does not dispute that fact. The Judge, however, went on to consider the medical evidence at [29 – 30] finding at [29] that little weight could be placed on some of that evidence, although noting at [30] that handwritten medical document, although most are not legible, refer to 'bullet injuries' and also a letter on page 1028 of the combined bundle from the appellant's GP stating that the first appellant has wounds consistent with gunshot wounds; indicating that at some point he had suffered the same.
18. Arguing that fact, combined with the photographs, is sufficient to establish legal error is without merit. As noted, the Judge does not dispute evidence of wounds but does not accept that the explanation as to causation is credible on the basis of the evidence the Judge was asked to consider as a whole.
19. The Judge specifically notes that the significance of other photographs was not pointed out to him at the hearing, meaning the appellants cannot complain that the Judge did not give that evidence the weight they believe it should have been given.
20. I find no legal error material to the decision to dismiss the appeal in relation to Ground 1. The Judge clearly received the evidence in question, considered it with the required degree of anxious scrutiny, has factored it into the decision-making process, and has given adequate reasons in support of the findings made.
21. In relation to Ground 2, having read the decision as a whole, I do not accept there is any merit in the assertion the Judge wrongly assessed the evidence of any witness by referring only to demeanour. At [21] the Judge places weight on the fact the witness was unable to answer a question on a significant matter. That has not been shown to be a misdirection or irrational conclusion by the Judge. The Judge sets out a number of reasons why the appeal failed and why the evidence only justified the weight being attached to it that the Judge did. I do not find this ground made out at all.
22. I find the appellants' have failed to establish legal error material to the decision to dismiss the appeal. The findings are clearly within the range of those available to the Judge on the evidence.
23. Ms Hussain indicated that the appellants have fresh evidence that was not before the Judge. If that is the case they can make a fresh claim, disclosing that material to the Secretary of State in a proper manner, to which consideration can

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be given by reference to the fresh claim provisions of the Immigration Rules and Ladd v Marshall.

Notice of Decision

24.No material legal error has been made out in the decision of the First-tier Tribunal. The determination shall stand.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

11 September 2023