



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002889
First-tier Tribunal Nos:
PA/55508/2022
LP/00447/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 09 October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

PK
(ANONYMITY ORDER CONTINUED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Wood, counsel, instructed by Immigration Advice Service
For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

Heard at Field House on 12 September 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the Appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the appellant (and/or other person). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant had appealed against the Respondent's decision dated 17 November 2022 to refuse a protection claim (asylum application) made on 26 October 2020. His appeal came before First-tier Tribunal Judge K Henderson on 12 June 2023 and by a decision dated 14 June 2023 he dismissed the appeal on

asylum and protection grounds and with reference to human rights based grounds.

2. Permission to appeal to the Upper Tribunal was given by First-tier Tribunal Judge Kelly on 27 July 2023 on the basis that it is “arguable that the Tribunal’s criticisms of the scarring report of Dr Zaffar (paragraphs 47 and 48 of its decision) were (a) not well-founded, and (b) materially contributed to its decision to dismiss the appeal”.
3. The Respondent’s response to this was essentially to say that despite such deficiencies as there might be there were other criticisms that could be made of it which render the issue of the expert evidence relating to scarring irrelevant.
4. The Respondent’s reply also asserts that there were other general criticisms of the Appellant’s account that those too indicated that the Appellant’s credibility was unreliable and that the Appellant was, for other reasons, not to be believed.
5. I take the view that the Judge in giving careful consideration to the grounds seeking permission was entitled to reach the view he did. In fact the significance and the importance to the decision of the credibility findings in relation to the injuries inflicted and their cause were properly addressed by the Judge : The Appellant gave his reasons to explain the situation which the Judge accepted. The fact that the Judge was subject to adverse argument does not it seems to me simply lead to his opinions being ignored.
6. I concluded that the treatment of the scarring medicolegal report by Dr Zafar, consultant psychiatrist with expertise in dealing with forensic issues, and with experience set out in his qualifications as a forensic medical examiner working with physical injuries of one sort or another, was a report which the Judge should have given weight to and the treatment of the evidence was not satisfactorily addressed by the reasons provided: Particularly when the Judge had identified that the core of the Appellant’s account was that he was violently attacked by his drunken father and sustained injuries thereby.
7. I concluded that the Original Tribunal’s decision contained a material error of law and the decision could not stand. Therefore, the appeal is allowed to the extent that the matter is to be considered de novo in the First-tier Tribunal.

8. **DECISION**

The appeal is allowed to the extent it is to be redetermined in the First-tier Tribunal.

Not before First-tier Tribunal Judge K Henderson.

No findings of fact to stand.



Appeal Number: UI-2023-002889
First-tier Tribunal Numbers: PA/55508/2022
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Judge of the Upper Tribunal
Immigration and Asylum Chamber
Date 26 September 2023