



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-003967

First-tier Tribunal Nos: HU/58982/2022  
LH/01586/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

3<sup>rd</sup> November 2023

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHEPHERD**

**Between**

**RAJA IMRAN IMTIAZ**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: Mr Stedman, counsel, (instructed by Law Lane Solicitors)  
For the Respondents: Ms Ahmed, Senior Home Office Presenting Officer

**Heard at Field House on 24 October 2023**

**DECISION AND REASONS**

**Background**

1. This matter concerns an appeal against the Respondent's decision letter of 10 November 2022, refusing the Appellant's application made on 5 January 2022.
2. The Appellant applied for leave to remain on the basis of his private life, relying mainly on the length of time he had been in the UK, amounting to over 15 years, and the ties developed during this time.

3. The Respondent refused the Appellant's claim by letter dated 10 November 2022 ("the Refusal Letter"). This set out the Appellant's immigration history and stated that the application had been considered with reference to Article 8 of the European Convention on Human Rights (ECHR) and under Paragraph 276ADE of the UK Immigration Rules. The Refusal Letter did not accept that the Appellant would face significant obstacles to re-integrating into life in Pakistan; it considered support from family in the UK could continue on return, the Appellant's claimed medical conditions were not life-threatening and could be treated in Pakistan and he had not shown that on return he would be homeless or destitute.
4. The Appellant appealed the refusal decision.
5. His appeal was heard by First-tier Tribunal Judge Thorne ("the Judge") at Taylor House (by CVP) on 21 July 2023. The Judge subsequently dismissed the appeal in his decision dated 5 August 2023.
6. The Appellant applied for permission to appeal to this Tribunal on five grounds. Grounds 1-4 assert that the Judge reached irrational conclusions concerning:
  - (i) the Appellant's ability to speak English
  - (ii) whether the Appellant would be supported and accommodated in the UK
  - (iii) whether the Appellant could utilise his family in the UK to obtain employment in Pakistan
  - (iv) the Appellant's length of residence in the UK.
7. Gound 5 asserts that the Judge failed to consider several relevant factors, being the Appellant's lack of family ties in Pakistan, the impact of removal on his mental health, the lack of gluten-free and meat-free foods in Pakistan and the age of the Appellant and related struggle he would face concerning employment.
8. Permission to appeal was granted by First-tier Tribunal Judge Monaghan on 18 September 2023, stating:
  - "1. The application is in time.
  2. The Judge has arguably made irrational findings in relation to the Appellant's ability to speak English and whether he can be adequately supported and accommodated.
  3. In relation to the ability to speak English, the Judge fails to mention that the Appellant gave evidence in English during the Hearing and the weight or otherwise he placed on that factor in reaching his conclusion that the evidence does not establish that the Appellant can speak English.
  4. In relation to adequate support and accommodation, the Judge's findings are arguable contradictory and/ or unclear. At paragraph 32(iv) on the one hand the Judge finds that the evidence does establish that the Appellant can be adequately supported and accommodated in the United Kingdom. In the same subparagraph the Judge goes on to note that he has seen no adequate documentary evidence that he can (be adequately supported and accommodated).

5. I find that these arguable errors are material as they may affect the proportionality balancing exercise which was carried out by the Judge.

6. The other grounds whilst less cogent remain arguable”.

9. The Respondent filed a rule 24 response opposing the grounds of appeal and asserting that: the Judge’s approach was correct, he was entitled to make the findings that he did and some of the grounds amount to mere disagreement.

### **The Hearing**

10. The matter came before me for hearing on 24 October 2023 at Field House.

11. Ms Ahmed attended for the Respondent and Mr Stedman attended for the Appellant.

12. Mr Stedman sought to raise a point not made explicit in the grounds, namely that there was a failure on the part of the Judge to consider family life, despite family life been raised in paragraphs 17 and 20 of the grounds of appeal before him. Mr Stedman said the Judge’s findings are all confined to a consideration of private life and there is no clear finding on whether family life in the UK exists. He said it was clear from the grounds and evidence before the Judge that this was a family life case because:

- (a) the Appellant’s evidence was that his only family are in the UK, being a brother, aunt, uncles and cousins, and his parents are deceased;
- (b) he has been living in is aunt’s household for 12 years; and
- (c) they have been supporting him financially.

13. Mr Stedman said the Judge was aware of the issue which is shown by his description of the oral evidence at [11] of the decision. He said it is a “Robinson obvious” point as any judge picking up this case and scanning it would say it is a family/private life case due to the weight of the evidence; it appears the Judge found article 8 is engaged but only in relation to private life and he does not go on to assess family life in terms of proportionality; this is an error which is material to the outcome.

14. I asked Mr Stedman whether there was any evidence of the Appellant having spoken English at the hearing, given that the decision records that he used an Urdu interpreter. Mr Stedman could not point me to any further evidence of the hearing itself; a transcript had not been obtained. He relied instead on the fact that the Appellant’s witness statement was in English with no sign of translation and it being mentioned in the skeleton argument.

15. Mr Stedman took me through the remaining grounds. I asked, in relation to ground 5, what the evidence was before the Judge of the Appellant having poor mental health. Mr Stedman said he did not draft the grounds and there were parts which he did not rely on, being the mental health point, the ability to find gluten-free and meat-free food and the Appellant struggling to find employment, all being factors contained within ground 5.

16. In response, Ms Ahmed confirmed she did not oppose the grounds being amended to include family life, although she submitted that there was no error

and that if there was, it was not material. She said it was not an issue explicitly raised before the Judge; paragraph 7 of the skeleton argument confirmed the issues to be whether there were significant obstacles and/or exceptional circumstances and the Respondent's review addressed those points. She relied on TC (PS compliance - "issues-based" reasoning) Zimbabwe [2023] UKUT 00164 (IAC), headnotes 1 and 2 stating:

"1. Practice Statement No 1 of 2022 ('the PS') emphasises the requirement on the part of both parties in the FTT to identify the issues in dispute and to focus on addressing the evidence and law relevant to those issues in a particularised yet concise manner. This is consistent with one of the main objectives of reform and a modern application of the overriding objective pursuant to rule 2 of the Tribunal Procedure (FTT)(Immigration and Asylum Chamber) Rules 2014. It ensures that there is an efficient and effective hearing, proportionate to the real issues in dispute.

2. A PS-compliant and focussed appeal skeleton argument ('ASA') often leads to a more focussed review, and in turn to a focussed and structured FTT decision on the issues in dispute. Reviews are pivotal to reform in the FTT. The PS makes it clear that they must be meaningful and pro-forma or standardised responses will be rejected. They provide the respondent with an important opportunity to review the relevant up to date evidence associated with the principal important controversial issues. It is to be expected that the FTT will be astute to ensure that the parties comply with the mandatory requirements of the PS, including the substantive contents of ASAs and reviews.

17. She said, notwithstanding that family life may have been raised in the grounds before the Judge, this was only by way of fleeting mention, the Appellant did not advance his case on family life and the issues were narrowed down in the skeleton argument, which is reflected in the Judge's decision at [18] and [30]. She also relied on Lata (FtT: principal controversial issues) [2023] UKUT 00163 (IAC) which made similar points to TC and stated in the headnotes:

"7. Unless a point was one which was Robinson obvious, a judge's decision cannot be alleged to contain an error of law on the basis that a judge failed to take account of a point that was never raised for their consideration as an issue in an appeal. Such an approach would undermine the principles clearly laid out in the Procedure Rules.

8. A party that fails to identify an issue before the First-tier Tribunal is unlikely to have a good ground of appeal before the Upper Tribunal."

18. She said family life cannot be a "Robinson obvious" point as the appeal did not concern a protection claim. She took me through the rule 24 response.
19. Mr Stedman replied and said that a failure of the skeleton argument to narrow down the issues does not change the facts and evidence that were in the bundle before the Judge. He said 'irrationality' was not being used in the public law sense per se, being aware that the only test applicable here was material error.
20. At the end of the hearing, I reserved my decision.

### **Discussion and Findings**

21. I remind myself of the important guidance handed down by the Court of Appeal that an appellate court must not interfere in a decision of a judge below without good reason. The power of the Upper Tribunal to set aside a decision of the First-

tier Tribunal and to proceed to remake the decision only arises in law if it is found that the tribunal below has made a genuine error of law that is material to the decision under challenge.

22. I deal first with the issue of family life. I cannot see that the grounds of appeal before me clearly raise the argument that the Judge failed to make a finding as to family life when considering article 8. I am not persuaded that the point is a “Robinson obvious” point which should be applied in favour of the Appellant notwithstanding that it was not raised at first instance. It therefore should have been made explicit in the grounds of appeal as per the cases cited above. However, as Ms Ahmed was content not to oppose it being raised, I heard submissions in relation to it, and with the overriding objective in mind with a view to avoiding any further litigation, I shall address it.
23. The Judge finds at [22] that the Appellant has a private life in the UK which engages article 8 ECHR, but finds that the interference with this right is not disproportionate [41].
24. The Judge was correct in saying at [3] that “On 05 January 2022 A applied for permission to stay in the UK on the basis of his Private Life and Exceptional Circumstances” as this is what the application said. The Judge also correctly notes at [5] the basis on which the application had been refused, noting the immigration rule that had been considered (276ADE), which was one concerning private life. I note the Appellant had the benefit of counsel’s representation at the hearing whereas the Respondent was not represented. The Judge states at [14] that after hearing oral evidence, he then heard submissions and read a skeleton argument. There is no further description of what the submissions comprised of but it is not said in front of me that the Appellant’s representative submitted that the Appellant sought to rely on family life as well as his private life.
25. I have seen the grounds of appeal that were before the Judge. Paragraph 9 argues the appeal should be allowed because the Appellant meets the requirements of paragraph 276ADE(1)(vi) of the Rules and “Removal would be contrary to Appellant’s protected rights under article 8 of the ECHR”. The grounds do not explicitly refer to the Appellant’s own family life and how this engages article 8. The specific paragraphs relied on by Mr Stedman read as follows:

“17. The Respondent wrongfully decided that the Appellant does not have a right to leave to remain in the UK on the basis of his private and family life in the UK. The Appellant has resided in the UK for over 16 years. He has never travelled to Pakistan since he entered the UK and has built strong ties in the UK with friends and family. The Appellant has two aunties in the UK whom he has a very close relationship with and they support him in every way possible.

20. It is submitted that the following factors render refusal disproportionate:

20.1. The Appellant has studied in UK, speaks English and has integrated into society;

20.2. His removal from the UK will damage his private and family life

20.3. He is not a threat to public society;

20.4. He would not be a drain on the public purse;

20.5. It would be unreasonable to expect the Appellant to continue his family life outside of the United Kingdom.”

26. Sitting in a specialist Tribunal, the Judge would very likely have been aware of the well-established requirement for the Appellant, as an adult, to show that something over and above normal emotional ties existed between him and his relatives in the UK as per the test in Kugathas v SSHD [2003] EWCA Civ 31, in order to show family life existed sufficient to engage article 8. As such, given the lack of detail, I cannot see anything in the grounds of appeal before the Judge that was sufficiently cogent to raise the issue of family life.
27. The skeleton argument that was before the Judge sets out in paragraph 2 the same issues to be decided in the appeal as were in the grounds, i.e. 276ADE and article 8 but this time is specific in saying (my emphasis in bold) “Whether his removal would disproportionately infringe his right **to a private life** under article 8 of the ECHR”. This basis is repeated at paragraph 7.2 headed “Submissions” which said “There are exceptional circumstances engaging article 8 of the ECHR and rendering his removal a disproportionate interference with **his private life**”. The skeleton goes on to mention, at paragraph 11, how the Appellant lives with his aunt, but only does so in relationship to the s.117B factors rather than the substantive claim being made.
28. It can therefore be seen that no clear argument for the existence of, or reliance on, family life was made in the application, grounds of appeal, skeleton argument or (apparently) at the hearing. Whilst the witness statements discuss the Appellant’s living circumstances and relationships, I do not consider that these alone were sufficient to make clear a contention that this, as well as his private life, engaged article 8. As the Appellant was an adult living with other adult family members which were not his parents, any such argument needed to have been made explicitly and with reference to clear supporting evidence. In the absence of this, I find the Judge was under no obligation to consider the question of family life when assessing the Appellant’s claim under article 8. It follows that I find no error disclosed in this regard.
29. I now turn to the written grounds of appeal.
30. I do not find ground 1 to be made out. The Judge’s decision records at [11] at the Appellant gave evidence using an Urdu interpreter. At [12] he records the Appellant’s confirmation of being able to speak Urdu and Punjabi, with no mention of English. I do not have a record or transcript of the proceedings in front of me, nor a witness statement from counsel who appeared at the hearing. The only evidence Mr Stedman could point me to, in order to show that the Appellant could speak English, was the Appellant’s witness statement. This does not confirm the language that the Appellant spoke when giving the statement nor does it say that the Appellant can speak English. I do not consider that the lack of a translation certificate is sufficient to show the statement was given in English, as such certificates are often found to be missing despite procedural requirements for the same. Overall, I do not find it sufficiently proved that the Judge erred in saying at 32(iii) that “the evidence does not establish that the Appellant can speak English”.
31. Even had I found such an error, as Ms Ahmed pointed out, this factor would at best have been neutral in the balance such that in itself, it was unlikely to have been a determining factor in the Judge’s overall conclusion as to proportionality.

32. I agree with ground 2 that the Judge's finding at 32(iv) is contradictory when he says:

"The evidence does establish that the appellant can be adequately supported and accommodated in the UK. I have seen no adequate documentary evidence that he can".

33. Given it is contradictory, it is unclear whether the Judge applied this factor in favour of the Appellant or not. This is an error. However, I find it is not material as it is one factor amongst many that the Judge considered. It also appears to go towards the s.117B factors which the Judge needed to consider in terms of whether the Appellant was financially independent from the state, such that it could only have been neutral in the balance in any event. I therefore do not find ground 2 made out.

34. As regards ground 3, I do not see what is irrational about the Judge's conclusion at 32(ix) when he says:

"In particular (although A has spent a considerable period in the UK, there is inadequate evidence to establish that he would not be able to find employment and adapt to life in Pakistan with the financial and emotional support of his family from the UK. Moreover A told me that he has a past history of employment in Pakistan and his aunts and uncles in the UK have family in Pakistan who could be called upon to provide support if necessary."

35. It is a misreading to say the Judge found the Appellant could utilise family on return to find employment. The finding the Judge makes in 32(ix) is that it has not been proved that the Appellant would not be able to find employment and adapt to life in Pakistan. The reason given is that the Appellant's oral evidence was that he had previously worked in Pakistan and that his aunts and uncles in the UK had family in Pakistan who could provide support if necessary. This is a sound and reasoned finding which discloses no error.

36. I do not accept the assertion that there was no reason why the Appellant's family would be willing to help. The witness statements confirm that the Appellant lives with his family in the UK and has their financial support, something he relied upon in order to make the argument that the Judge should have addressed family life. If they have been willing to help him in the UK, it is logical to consider, without evidence to the contrary, that this assistance could continue outside the UK.

37. As regards ground 4, the judge states at [36] that:

"Applying the requisite standard of proof, I accept that A has been away from Pakistan for some years. But the length of time does not reach the 20-year benchmark set out in the Immigration Rules. I must give substantial weight to this benchmark in relation to the public interest balancing exercise".

38. Had the Judge been discussing the Appellant's ability to meet immigration rule 276ADE (1)(vi), and the requirement that there be significant obstacles to integration, I would have agreed that this finding was questionable, as the Judge would be using the Appellant's inability to meet the requirement for 20 years' residence under immigration rule 276 ADE (1)(iii) as a reason why he does not meet 276ADE (1)(vi). But it is not clear that this is what the Judge is doing. This paragraph is within a section headed "The Prism of 276ADE & Gen 2.3" such that it cannot be said he is not dealing with each of the sub provisions of 276ADE in turn, as the Refusal Letter did.

39. It is unclear why the Judge adds the sentence about substantial weight being given to the failure to meet the 20 year benchmark, when really this would have been more appropriately said about an overall failure to meet the rules. I accept therefore, that it is unclear whether the Judge attached unduly heavy weight to this aspect such that it could be an error. However I do not find any such error to be material, given the Judge is clear in finding that overall, the Appellant does not meet any part of 276ADE and so, the applicable immigration rules. I find he does this for sound reasons, as I have described above and which I shall further address now concerning ground 5.
40. Ground 5 submits that the Judge failed to properly consider the Appellant's lack of family ties in Pakistan, the impact of removal on his mental health, a lack of gluten-free and meat-free foods in Pakistan and the age of the Appellant and struggle he will face finding employment. Mr Stedman confirmed he did not seek to rely on any but the first of these factors. I consider this was sensible, as I would have found the Judge was entitled to make findings did on these in [32]. The findings themselves show that the Judge did consider these factors.
41. As regards the lack of family ties, the Judge at [11] and [12] describes the Appellant's oral evidence:
- [11]"...All my familial ties are here in the UK, I have no ties remaining in Pakistan. If I were to go back, I would have nowhere to return to and no one to help support me build a new life. I would become destitute".
- [12]..."In oral evidence he said that his parents had died in Pakistan, but he had no documentary evidence of this. He also said that in Pakistan he used work as a loan manager in a bank. He spoke Urdu and Punjabi".
42. The Judge also then records that:
- [13]. "I then heard evidence from A's aunt Saiha Ahmed who adopted her witness statement and supported what A had said. In oral evidence she said that her sister-in-law lived in Pakistan".
- [14]. "I then heard evidence from A's other aunt Sabiha Ahmed who adopted her witness statement and supported what A had said. In oral evidence she said that her husband's siblings lived in Pakistan. ..."
43. The Judge refers to this evidence when making his findings in [32], including his particular finding at 32[ix] (discussed above) that the Appellant would be able to find employment and adapt to life in Pakistan given he has a past history of employment and his family in the UK have family in Pakistan which could be called upon for support if needed. The Judge is essentially saying that the Appellant will not face significant obstacles on return despite any lack of his own ties in Pakistan. This is a finding that was open to him on the evidence and overall it is clear that the Judge properly considered the obstacles raised by the Appellant.
44. To conclude, I find the decision is not infected by any material errors of law. The decision therefore stands.

### **Notice of Decision**

45. The appeal to the Upper Tribunal is dismissed. The decision of First-tier Tribunal Judge Thorne of 5 August 2023 is maintained.



46. No anonymity order is made.

**L.Shepherd**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
**27 October 2023**