



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-005209
UI-2024-005210
First-tier Tribunal No: PA/55715/2023
PA/55736/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 28th of January 2025

Before

UPPER TRIBUNAL JUDGE O'BRIEN

Between

- 1. SN**
- 2. NS**

(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Spurling of Counsel, instructed by Thompson & Co Solicitors

For the Respondent: Mr Walker, Senior Home Office Presenting Officer

Heard at Field House on 15 January 2025

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellants are granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellants, likely to lead members of the public to identify the appellants. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellants were born on 26 March 1988 and 13 November 1987 respectively. They are citizens of Pakistan.
2. The appellants appeal with the permission of First-tier Tribunal Judge Horton against the decision of First-tier Tribunal Judge Howard ('the judge') promulgated on 25 June 2024 dismissing their respective appeals against the respondent's refusal of their protection and human rights claims.

The Parties' Respective Cases

3. The grounds of appeal allege 3 errors of law: the judge unfairly went behind a factual concession by the respondent; the judge failed to give weight to material matters; and the judge applied the incorrect standard of proof. Permission was granted on all grounds.
4. The respondent did not submit any rule 24 response and Mr Tufan accepted at the hearing that the judge had erred, in particular in the manner outlined in ground 1.

Submissions

5. In the corresponding decision letter, the respondent accepted that the second appellant had been threatened by the Taliban. However, in [71], the judge finds:

'Considering the evidence holistically, even applying the lower standard of proof, I am not satisfied that either A1 or A2 has given a credible and truthful account regarding their alleged fears in Pakistan.'
6. I accept that the judge thereby went behind a material factual concession by the respondent. Mr Tufan accepts that this error infected the judge's assessment of the appellants' respective accounts such that it will be necessary to remit the case to the First-tier Tribunal to be heard afresh.
7. I should add that the judge also made an unfortunate error in the applicable burden of proof when finding at [62], 'Had the incident had such an impact on A2 as alleged, then I find that it is reasonably likely that A2 would have reported the incident to the police.' The question he should have asked himself is whether the second appellant's account was reasonably likely, in other words whether it was reasonably likely that matters unfolded as the second appellant claimed but that she would **not** in the circumstances have reported the incident to the police.

Notice of Decision

1. The appeal is allowed
2. The judge's decision involved the making of an error of law and is set aside.
3. The appeal is remitted to the First-tier tribunal to be heard by a different judge with no findings of fact reserved.

Sean O'Brien

Judge of the Upper Tribunal
Immigration and Asylum Chamber

23 January 2025