



IAC-AH-DP-V1

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

Appeal Number: AA/00195/2015

THE IMMIGRATION ACTS

Heard at Bradford

On 12 January 2016

**Decision &
Promulgated**

On 10 March 2016

Reasons

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**U K
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Vaughan, NBS Solicitors

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, U K, was born in [] 1988 and is a citizen of Pakistan. He claimed asylum, his application was refused and directions were issued for his removal from the United Kingdom. The appellant appealed against that decision to the First-tier Tribunal (Judge Crawford) which, in a decision

promulgated on 25 February 2015 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I find that the decision of the First-tier Tribunal should be set aside. The Judge has produced what is, on the whole, a detailed and careful examination of the evidence, but, in certain instances, his analysis is problematic. At [44] the Judge wrote that whilst assessing the documentary evidence produced by the appellant,

in my judgment the newspapers produced by the appellant do little to further his case. I have not seen the original newspapers to confirm the veracity of the alleged contents.

3. Clearly, in certain instances original documents may carry more evidential weight than copies. However, it is not clear here whether the Judge is casting doubt upon the authenticity of the documents because they were copies. It is also unclear as to how the production of the original newspaper articles might be capable of “confirming the veracity of the alleged contents”; depending on the circumstances, original documents will not always be genuine whilst copies of originals may carry considerable evidential weight. As a consequence, I am not sure what weight, if any, the Judge has attached to the newspaper articles.

4. At [45] a more serious problem arises. The Judge discusses at that paragraph the production of FIR documents adduced in evidence by the appellant. He noted that,

[the FIR] was registered by the police themselves. The point is made in the refusal letter that the FIRs are normally registered by members of the public and is only in limited circumstances that the police generate FIRs themselves. ... I have not seen the original of this document [the FIR] but the appellant left Pakistan on 14th May 2011. ... my conclusion is that the copies of the FIR and arrest warrant do not further the appellant’s case in the absence of originals and then I cannot be sure where they originated. The appellant says they were sent to this country but the issue is the location of the originals.

5. Mrs Pettersen, for the respondent, did not dispute the appellant’s assertion that, generally, an original FIR is never served upon a person charged or with an offence in Pakistan. As the grounds state, “a photocopy was provided and is verified by the attachment of a stamp”. A stamped copy was available at the hearing before the First-tier Tribunal. Mrs Pettersen submitted that, notwithstanding the Judge’s apparent error, his other credibility findings were sound. That may be the case but it is difficult in an holistic analysis of the evidence (as the Judge should conduct in an appeal of this sort) to separate out the various findings of fact, preserving some whilst discarding others, and to determine the extent to which a particular finding may determined the Judge’s conclusions on credibility. As it is, the Judge has, in effect, refrained from properly assessing the stamped FIR document because he was expecting that to see an original which was, for the reasons given in the grounds, be highly unlikely to have

been forthcoming in any event. It was the appellant's case that he had adduced the best evidence he had available and it was the task of the judge to assess that evidence.

6. In the circumstances the only proper course of action is for the decision to be set aside together with the findings of fact. A new fact-finding exercise will need to be conducted in the First-tier Tribunal to which the appeal is now returned for that Tribunal to remake the decision.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated on 25 February 2015 is set aside. The findings of fact are set aside. The appeal is returned to the First-tier Tribunal (not Judge Crawford) for that Tribunal to remake the decision.

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 him or any member of their 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

Date 20 February 2016

Upper Tribunal Judge Clive Lane