



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

Appeal Number: PA/13524/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 5 February 2020**

**Decision & Reasons Promulgated
On 07 February 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

RAMEEZ KHAN
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Moffatt

For the Respondent: Ms Jones, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 7 June 1992 and is a male citizen of Pakistan. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 15 November 2018 refusing his application for international protection. The First-tier Tribunal, in a decision promulgated on 25 November 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The Tribunal had before it a medical report detailing scarring on the appellant's body. The appellant claimed that he been tortured in Pakistan. The judge rejected that account but he did find [92] that two scars in

particular identified by the expert could not have been the subject of accident or self-infliction by proxy. The judge concluded that the scars, whilst not inflicted in the manner described by the appellant, could have been inflicted in the United Kingdom ‘in a scenario which the appellant does not rely upon.’

3. The grounds of appeal challenge the decision on the basis that the judge had given inadequate reasons for not accepting the appellant’s account and are given and clear and/or inadequate reasons for distinguishing on the facts present case from the decision of the Supreme Court in *KV (Sri Lanka) [2019] UKSC 10*.
4. I agree with Ms Moffat, who appeared for the appellant before both the First-tier Tribunal and the Upper Tribunal, the judge’s reference to *KV* somewhat obscure (*‘The facts of this appeal are highly distinguishable from those in KV despite principles arising therefrom requiring to be applied.’*) The judge does not give any reasons for concluding that the facts are ‘highly distinguishable’. However, at [44], the judge, referring to *KV*, directed himself that the expert’s report on the scarring is strongly corroborative ‘at least of elements of the appellant’s account.’ To an extent, the judge appears to have understood *ratio* of the Supreme Court guidance. Moreover, given the totality of the findings and the evidence made by the judge, in particular his rejection of the documentary evidence upon which the appellant relied, I find that it was open to the judge to find, on the one hand, that the appellant had scars which were not the subject of an accident or self-infliction by proxy are otherwise, was, on the other hand, rejecting the appellant’s account of past events in Pakistan. The judge’s observation that the scars could have inflicted in the United Kingdom in circumstances which the appellant has not revealed seems reasonable in that context. Nor is it an observation at odds with the guidance of *KV*.
5. The second ground concerns the judge’s treatment of the documentary evidence (and application of the principles of *Ahmed [2002] UKIAT 00439*). The judge devotes a large part of the decision to robust criticism of the documents put forward by the appellant in support of his appeal. The judge notes that the appellant’s own representative had referred to ‘oddities’ in the documents, some of which did not even appear to refer to the appellant or to any part of his account of past events at all. The appellant now complains that the judge had no basis for commenting that the documents were likely to be ‘fraudulent’ given that the respondent had never made any allegation to that effect.
6. There is some force in this ground. It would appear that the judge got carried away with his criticism of the documents and, whilst he was entitled for the reasons which he has given, to attach no weight at all to them it was unnecessary for him to go so far as to suggest that the documents were forgeries when no such allegation had been advanced. However, I have to consider whether such an error undermines this decision to the extent that I should set it aside. In my opinion, it does not.

In terms of the outcome of the appeal, nothing turns upon the judge's reference to forgery; the documents attracted no evidential weight whether they were forgeries or simply irrelevant or unreliable. Although the judge should have been more careful in his use of language, I can understand his frustration in having to read and consider the relevance of documents which even the appellant himself appears to have considered had nothing at all to do with his case. The judge also does not appear to have been assisted by the appellant's representatives. Ultimately, the documents were given no weight and, significantly, before the Upper Tribunal the appellant did not submit that any of the documents in question should be given weight. Instead, the challenge was only to the description of the documents as forgeries. In all the circumstances, I decline to set aside the decision for the reasons advanced in ground 2.

7. The third ground also concerns the documentary evidence. The judge appears to have rejected documents other than those referred to above, including a newspaper article relating to the appellant's father's ex-wife's father. Although the judge appeared to accept that minor variations in names could be explained by cultural differences, the appellant complains that he gave no weight to the documents. Moreover, the appellant submits that the judge also given too much weight to the appellant's inability to explain fully the documents which he had produced in support of his appeal. That was unfair given that the appellant was himself reliant upon hearsay concerning documents emanating from Pakistan after his departure from that country.
8. I reject that ground. I find of the judge was entitled to attach little weight to documents the significance of which even the appellant could not explain. The appellant had placed these documents before the Tribunal to support his case. That he could not explain the relevance of the documents when asked to do so in court is, in my opinion, highly significant and properly impacted on the appellant's credibility. That remains the case even if the appellant had been sent the documents by third parties after he left Pakistan. If the appellant chooses to put a particular document before the judge, then, whatever its provenance, he should not be surprised that the judge should take a dim view of the appellant's failure to explain its relevance.
9. The fourth ground concerns the judge's treatment of the evidence of Dr Green, a chartered psychologist. The judge gives his conclusions regarding Dr Green's evidence at [94]. The judge notes that the doctor appears to have proceeded in his assessment with the appellant's 'false history in his mind.' The judge was not satisfied that the doctor had approached the matter entirely impartially. The judge quotes Dr Green as having stated that the appellant 'has had a significant trauma in his life...' before noting that Dr Green is not 'the master of the facts. It was quite wrong of him to reach such a conclusion.' The grounds complain that the judge failed to take account of the fact that Dr Green was aware of the circumstances in which the appellant given his evidence in the earlier stages of the asylum claim and litigation. The judge did not challenge the twin diagnoses of the

doctor, namely PTSD and depression. The judge himself had acknowledged that the appellant had suffered non-accidental injuries which had not been self-inflicted, by proxy or otherwise. To that extent, the appellant could be properly said to have suffered a significant trauma and it was wrong for the judge to have criticised the doctor for saying so.

10. There is some force in that latter point, namely that, on the judge's own finding, the appellant had suffered injuries which were not accidental or self-inflicted. It follows that the injuries were inflicted by third-party so Dr Green's statement that the appellant had suffered 'a significant trauma' is not inconsistent with those injuries. I also agree that to describe Dr Green as not being impartial may be somewhat harsh. However, it is clear, when one reads the entire report, that the doctor's reference to significant trauma only really makes sense in the context of the appellant's claim (rejected by the judge) that he had been tortured in Pakistan. I do not believe that Dr Green was referring to any trauma which may have occurred later in the United Kingdom such as that postulated by the judge. To that extent, the doctor based his findings on an account of events in Pakistan which the Tribunal has completely rejected. Accordingly, I am satisfied that the judge was entitled to attach less weight to Dr Green's report. The suggestion of partiality is unfortunate but does not constitute an error so serious that I find that I need to set aside the decision. Moreover, the judge's treatment of the medical evidence (at the beginning and the end of the decision) clearly shows that he has not made up his mind and only subsequently turned to consider the medical reports; indeed, the reports are central to the analysis (see *Mibanga* [2005] EWCA Civ 367).
11. I find that the judge has produced a robust but even-handed and legally sound decision. There are infelicities of expression and, in the case of *KV*, possibly a failure fully to explain his reasons but, read as a whole, I am satisfied that the decision is not flawed by legal error either as asserted in the grounds or at all. Accordingly, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

Signed

Date 5 February 2020

Upper Tribunal Judge Lane