



IAC-FH-NL-V1

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

Appeal Numbers: AA/00422/2015
AA/00423/2015

THE IMMIGRATION ACTS

Heard at Field House

On 24 February 2016

**Decision &
Promulgated
On 11 March 2016**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

and

**WJ & MW
(ANONYMITY DIRECTION MADE)**

Appellant

Respondents

Representation:

For the Appellant: Mr S Staunton, Home Office Presenting Officer
For the Respondents: Mr A Khan, Counsel instructed by Thompson & Co
Solicitors

DECISION AND REASONS

1. This is an appeal by the Secretary of State in relation to a decision made by First-tier Tribunal Judge Bird that was promulgated on 9 December 2015. The appeal is brought with the permission of First-tier Tribunal Judge Lambert, granted on 4 January 2016.
2. In dealing with the grant of permission Judge Lambert stated:

“The grounds argue lack of reasoning justifying departure from Country Guidance in **AW (sufficiency of protection) Pakistan [2011] UKUT 31** and failure properly to apply the principles of effective protection as established by case law. In the absence of any ascertainable consideration in the decision of **AW** or the legal framework for a successful claim of lack of effective protection, the grounds are arguable.”

3. The grounds drafted on behalf of the Secretary of State were slightly more extensive than this, but the focus of the submissions made to me this morning have been narrowly addressed and confined to this discrete matter. I do not need to rehearse the facts of this case. There is no dispute so far as that is concerned and the recitation of the background and the findings of Judge Bird in that respect are not in any way subject to criticism.
4. The issue which is taken is the extent to which Judge Bird properly addressed the question of sufficiency of protection in the event that the respondents to this appeal were returned to Pakistan. The point is fairly made that there is no citation of the leading authority of **AW** (above). For convenience I need only rehearse two paragraphs of the head note of that decision:
 - “2. Notwithstanding systemic sufficiency of state protection, a claimant may still have a well-founded fear of persecution if authorities know or ought to know of circumstances particular to his/her case giving rise to the fear, but are unlikely to provide the additional protection the particular circumstances reasonably require (per Auld LJ at paragraph 55(vi)).
 3. In considering whether an appellant’s particular circumstances give rise to a need for additional protection, particular account must be taken of past persecution (if any) so as to ensure the question posed is whether there are good reasons to consider that such persecution (and past lack of sufficient protection) will not be repeated.”
5. The judge’s decision would have been enhanced had **AW** been cited and the content of the head note rehearsed. However, I have been taken to the key passages in the decision and it seems to me that, notwithstanding the lack of citation of that authority, the issues to be addressed were both raised and were determined. In particular I have regard to paragraph 38 of the decision which reads as follows:

“The documentary evidence that has been produced by the appellants to the lower standard corroborates their account of firstly the marriage of the second appellant and her divorce from [NA]. They also corroborate the second appellant’s account that she was married

to a distant relative in 2000 and that she divorced him because of his violence. It is obvious that in the cultural context for a woman to divorce her husband on those grounds would have been seen as bringing dishonour to the family. It is also highly likely that because of her divorce the first and second appellants were threatened by her ex-husband. The appellant sought to relocate within Pakistan but the ex-husband managed to trace them. They also reported the matter to the police but there is no evidence of any action being taken or any investigation being carried out by the police in Pakistan.”

6. There is then reference in paragraph 39 to the country information and guidance that was provided which is analysed and assessed by the judge.

7. In paragraph 40 the judge says the following:

“There is also objective evidence in the respondent’s bundle, the latest being a US State Department Report 2013 referring to events in 2012 which considers the police and other protection agencies. At paragraph 87 of the second appellant’s bundle is a note on Security and Foreign Forces dated 17 April 2012. This report again points to the availability of protection. Against the background of the objective evidence the respondent says that the appellants can return to Pakistan and there would be sufficiency of protection. What however has to be looked at is what happened when the appellants reported the incidence of attacks. There was no action taken. The sufficiency of protection therefore against non-state agents has not been effective or available to the appellants.”

8. Paragraphs 44 and 45 of the judge’s decision read as follows:

“44. From the account of these appellants I find that it is likely that the second appellant’s family and her ex-husband may well have seen her actions as bringing dishonour to the family. The couple relocated on a number of occasions to avoid threats being carried out. They did not receive any protection against these threats from the police despite reporting them. The threats appear to continue against the first appellant’s family.”

45. To the lower standard I find that the appellants have shown that they have a well-founded fear of being subjected to treatment that would amount to persecution because of their religious views if returned to Pakistan. For the same reasons I find that there will be a breach of their protected rights under Articles 2 and 3.”

9. Looking at these paragraphs of the decision which I have set out fully, I am confident that the judge properly carried out the task that was required of her in accordance with **AW**. She had proper regard to the generic circumstances prevailing in Pakistan and read and considered all relevant

