



Upper Tier Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/02961/2014

**THE IMMIGRATION ACTS**

Heard at Manchester  
On 18 November 2014

Determination Promulgated  
On 25 November 2014

Before

Deputy Upper Tribunal Judge Pickup

Between

Majeed Ziroohi  
[No anonymity direction made]

Appellant

and

Secretary of State for the Home Department

Respondent

**Representation:**

For the appellant: Mr KJ Wood, instructed by Rochdale Law Centre  
For the respondent: Mr A McVeety, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Majid Ziroohi, date of birth 30.7.84, is a citizen of Iran.
2. This is his appeal against the determination of First-tier Tribunal Judge Ennals promulgated 26.6.14, dismissing his appeal against the decision of the respondent, dated 19.4.14, to refuse his asylum, humanitarian protection, and human rights claims and to remove him from the UK. The Judge heard the appeal on 9.6.14.

3. First-tier Tribunal Judge Parkes granted permission to appeal on 14.7.14.
4. Thus the matter came before me on 18.11.14 as an appeal in the Upper Tribunal.

### **Error of Law**

5. In the first instance I have to determine whether or not there was an error of law in the making of the decision of the First-tier Tribunal such that the determination of Judge Ennals should be set aside.
6. The appellant entered the UK as a visitor and made a late claim for asylum on the basis of alleged anti-regime activities being revealed following the arrest of a friend. Judge Ennals dismissed the appeal on all grounds, having found the appellant not credible.
7. The grounds of appeal argue that the judge did not consider the totality of the evidence and in particular failed to consider the evidence of the appellant's dismissal from the doctor's surgery. It is asserted that the judge had not considered the background evidence when assessing the appellant's account. Complaint is also made that the judge refused to allow an adjournment to adduce evidence of the appellant's 2009 blog and screen prints.
8. In granting permission to appeal, Judge Parkes simply stated that he found the grounds arguable.
9. The Rule 24 response submitted that the First-tier Tribunal Judge had directed himself appropriately and if there were any errors, they were not material and thus not errors of law. In relation to the adjournment refusal, it is submitted that the judge was entitled to consider that as this was in issue from the outset, the appellant should have provided satisfactory evidence of his blog covering that time period. The further evidence now adduced was not before the First-tier Tribunal and should not be admitted at this stage.
10. The grounds rely on §21 of the decision to the effect that the only corroborative evidence of the arrest was a screen print from another blog. It is submitted that at A18/19 of the appellant's bundle there was a letter from Dr Shabestari terminating the appellant's employment at the surgery, due to his anti-regime politics becoming known to the authorities. Mr McVeety accepted that the judge did not mention this evidence, but he challenged the materiality.
11. The letter dated 1.2.11 is not verifiable; it cannot be demonstrated that it was written by the doctor. The appellant entered the UK on 5.8.10 and this letter was not written until some 6 months later. There is no evidence that the appellant had been given leave of absence from his

employment or that he ever intended to return to Iran. His case is that in December 2010 his father informed him of his friend's arrest and that the appellant's family home had been raided and his computer and other items including anti-regime information were taken. He was also informed that his blog had been blocked in Iran. His sister had asked him to leave her home in the UK once his visa expired, because she didn't want problems from the immigration authorities. Notwithstanding these matters, the appellant did not claim asylum until December 2011, well over a year after he claims he learnt the authorities were interested in him.

12. It is not necessary to rehearse all the credibility findings here. However, I might point out one or two pertinent examples. For instance, at §18 although the appellant said that he was a songwriter and producer of music on his computer, he said that he did not actually write the words, but contributed to revising them to better fit the music; yet he was unable to remember any of the words or even the titles of any of the songs. More significantly, during his interview the appellant repeatedly stated that he had no problems in Iran before he left. His witness statement sought to revise those answers by the frankly ridiculous suggestion that he did not see his claimed arrest, detention and mistreatment over 12 days in January 2010 as an ongoing problem. Before the First-tier Tribunal in oral evidence he tried to suggest that there had been a problem with the interpreter. That was in complete contrast, as the judge pointed out, to his witness statement adopted at the hearing which confirmed he had no difficulties with the interpreter. It is clear that the First-tier Tribunal Judge found serious and irreconcilable credibility issues with the appellant and his account.
13. In that context I do not accept that the doctor's letter, even if reliable, can have any material bearing on the outcome of the appeal. I find the letter not credible. In particular I find it not credible that the letter purports to terminate the appellant's employment, long after he had left Iran and apparently, in light of the credibility findings of the First-tier Tribunal, what can only be concluded to be with no intention to return. I note that he has given different and inconsistent accounts of how long he intended to stay in the UK, 1, 4 or 6 months. He has also said he intended to go to Canada and that he surrendered his passport to the agent. That is not the action of someone who intended to return to Iran. His employment would surely have been terminated on his failure to turn up for work. The letter makes no reference to any leave of absence or that he is out of the country. Frankly, given the credibility findings in relation to other issues, I cannot see how it could be said that consideration of this letter would or could have produced a different outcome to the appeal. In the circumstances, I find no error of law in the omission of this document from the judge's considerations.

14. The second ground of appeal refers to background evidence, in particular that detailing arrests and mistreatment following the June 2009 presidential election, raids on homes and repressive treatment of suspected anti-regime activists by the Iranian authorities. It is submitted that credibility findings were not made with reference to or in context of the background evidence.
15. As Mr McVeety pointed out, there was no doubt that those suspected of anti-regime activity are persecuted by the Iranian authorities. That was not in issue in the appeal. However, given the judge's credibility findings, the appellant is not liable to such persecution. The judge did not accept the factual basis of his account. He thus does not fall to be considered or suspected as an anti-regime activist or otherwise at risk because of actual or imputed political opinion. The background evidence does not assist the judge to assess the appellant's account. If, which the judge did not accept, his account were truthful, then it is obvious that he would be at risk.
16. In the circumstances, I find no error of law in relation to the treatment or lack of treatment of the background evidence.
17. For the following reasons I find no error of law in relation to the documents produced regarding the appellant's website or blog and the alleged error in failing to adjourn to allow further evidence to be produced, which is alleged to amount to procedural unfairness.
18. First, it is clear that the issue of the existence of the blog was challenged by the respondent at §5 of the reasons for refusal. The appellant supplied the web address but despite confirming that it was correct, the immigration officer could not find any information about the appellant. A further search was conducted after the interview, on 28.5.12, but again without success. Thus the respondent did not accept that the appellant had any anti-regime blog.
19. The letter at A8, dated 24.4.12, explains that following the asylum interview a number of documents were submitted to the Secretary of State, including a copy of one page of the appellant's website and confirmation that the website had been blocked in Iran. However, the documents in the appellant's bundle were of very poor quality and in particular in the judge's copy of the appellant's bundle the web address is undecipherable. Mr Wood produced to me a colour copy that was clear, but he could not explain why documents of that quality were not supplied to the Tribunal. He tried to give evidence to me that the clearer copies were available with the appellant's file and that they had been sent to the respondent. However, I was not prepared to accept any evidence from Mr Wood on this matter.

20. It is said that A12 shows the web address at the top left, but I could not make it out. It is said that A13 is a translation of the square blocked area of A12, but makes no reference to the appellant's name. At §19-§20 of the decision, the judge considered the evidence before him as to the blog. He noted that at A10/11 was dated April 2012, months after the asylum claim and some 18 months after he left Iran. There was no corroborative evidence for the existence of the blog before the appellant left Iran, or even before his asylum claim.
21. It was at this point, part-way through the hearing of the appeal before the First-tier Tribunal, that Mr Wood sought an adjournment to produce evidence of the earliest blog entries dating back to 2009. He claimed he had not been put on notice that it was to be contended that the blog had only recently been created in order to support the asylum claim. I find that a disingenuous suggestion, given that it was obvious from the outset that the respondent did not accept that there was any such blog. The appellant and more so his legal representatives should have produced satisfactory evidence of the blog. There had been ample opportunity to do so, not only of earlier blog postings but better quality documents. Those put before the Tribunal were of such poor quality that it was impossible to check the web address or to confirm that the appellant is even mentioned in the blocked page. The burden of proof was on the appellant, but it had not been discharged.
22. At §26 the judge again drew attention to the poor quality of the document submitted on the appellant's behalf. The appellant failed to provide any contemporaneous evidence of his blogging activities in Iran, even though, if it existed, such evidence would have been relatively easy to obtain and produce. However, the judge considered that even if the appellant had blogged as claimed, the only reason he would have been at risk was after the arrest of his friend, but the evidence for that came from another anonymous blog. The judge therefore found that there was no objective evidence that his friend had been arrested, or that the appellant is of any adverse interest to the authorities in Iran, as explained in §26 of the decision. I find that these were all findings reasonably open to the judge on the evidence and for which cogent reasons have been provided.
23. In the circumstances and on the limited evidence put before the judge, I find that it was practically impossible for the First-tier Tribunal to have concluded that this was the appellant's blog, or that his blogging had come to the attention of the authorities. I further find that there was no error of law in proceeding with the appeal hearing on the evidence the appellant had chosen to put before the Tribunal. Mr Wood accepted that this was not his strongest point.

24. The grounds assert that the respondent had the “original screen prints” relating the the Internet blog but chose not to provide them to the Tribunal. Judge Ennals is criticised for not requesting the Home Office to produce them. I find this a an unsustainable attack on both the Home Office and the Tribunal judge. There remains no evidence whatsoever that such original documents had been submitted. Nor was Mr Wood able to explain why further and at least as good copies were not submitted as part of the appellant’s bundle or at the very least produced to the First-tier Tribunal. Apparently, very recently, with the past week the appellant’s representatives had written to the Home Office to check what documents had been submitted following the appellant’s asylum interview. It having been left so late to make such an enquiry, it had not been possible to locate the file. However, given that the refusal decision stated that no such evidence had been produced, it seems rather unlikely that there would be better evidence with the Home Office than the appellant’s representatives produced to the First-tier Tribunal.
25. No argument appears to have been advanced to the First-tier Tribunal as to the effect of any sur place activities by the appellant in the UK. It does not feature in the grounds of application for permission to appeal and was not addressed in the submissions made to me. In the circumstances this is not an issue with which I need to deal.

**Conclusion & Decision:**

26. For the reasons set out above, I find that the making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



Signed:

Date: 25 November 2014

Deputy Upper Tribunal Judge Pickup

**Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

Given the circumstances, I make no anonymity order.

**Fee Award**

**Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award (rule 23A (costs) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007).

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable and thus there can be no fee award.



Signed:

Date: 25 November 2014

Deputy Upper Tribunal Judge Pickup