



IAC-AH- -V1

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

Appeal Number: AA/04633/2014

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

On 28th October 2014

On 11th November 2014

Before

**DEPUTY JUDGE OF THE UPPER TRIBUNAL
MS. GA BLACK**

Between

**S A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms N Nnamani (Counsel)

For the Respondent: Mr M Shilliday (Senior Home Office presenting officer)

DECISION AND REASONS

1. This is an appeal against a determination by the First-tier Tribunal (Judge Kamara) promulgated on 7th August 2014 in which she dismissed the appeal on asylum, humanitarian protection and human rights grounds under Articles 2 and 3.

2. The appellant was born on 22 October 1986 and he is a citizen of Iran and of Kurdish ethnicity.

Background

3. The respondent refused the application on 22 May 2014, on the grounds that none of the aspects of the appellant's claim were accepted save for his nationality. The evidence, including the documents relied on, was considered to be lacking in consistency and plausibility.
4. In a determination the Tribunal considered the original documents produced by the appellant. It found no reliable evidence that the same had ever been posted to the appellant having regard to the state of the envelope which was produced, and from which it was impossible to identify the sender, the recipient or the date of postage. [12] There after the Tribunal considered in turn each document relied on by the appellant and giving reasons for placing no weight on the evidence [12-16]. At [17] the Tribunal considered the medical evidence from Dr Hajioff. It found his psychiatric opinion to be reliable but not his views as to the causes of scarring from physical injury. The Tribunal agreed with the conclusion reached by the respondent and found no aspect of the appellant's claim to be credible save for his nationality. The determination set out detailed reasons in support of its decision. [18 -32].
5. In lengthy grounds of appeal seeking permission, the appellant argued that the Tribunal's conclusion as to the lack of credibility of his claim arose as a result of errors in that the Tribunal
 - (i) misdirected itself by failing to take into account the appellant's inability to recall dates,
 - (ii) made inconsistent findings as to the evidence of the appellant's identity,
 - (iii) wrongly found discrepancy at [21-31] in the appellant's evidence where there was none,
 - (iv) wrongly rejected the evidence of the original documents having regard to supporting evidence that it was posted to the appellant,
 - (v) wrongly found the appellant's account to be implausible regarding the PJAK incident.

Permission to appeal

6. Permission was granted by Judge Cruthers on 4th September 2014 who stated

"In essence, the grounds (from paragraph 4 on) raise a number of quarrels as regards the Judge having put little weight on some of the appellant's "supporting documents", and as regards the judge's

“credibility assessment” generally. I suspect that there is little substance in in at least some of the complaints made in the grounds. For instance I note that there is no comment on some of the Judge’s potentially very significant “credibility points” – her paragraphs 30 and 31 for example. But it may be that the Judge did materially err in some of the ways alleged. Overall, there is sufficient in the grounds to make a grant of permission appropriate.

As already intimated the appellant should not take this grant as any indication that the appeal will ultimately succeed. “

The hearing

Submissions

7. Ms Nnamani amplified her grounds of appeal and focused on four complaints made in respect of findings at paragraphs 11, 19, 25 & 26, and 27 & 31 of the determination. Her main argument was that the Tribunal’s decision was reached entirely on credibility issues and no attention given to any objective material. She was unable to specify what objective material actually drawn to the Tribunal’s attention other than the COIR September 2013 at 20.13 in relation to events post 2009. She submitted that the medical evidence was considered in isolation and rejected in the absence of a holistic assessment of all the evidence, and for inadequate reasons. The Tribunal placed too great weight on the inconsistencies in the appellant’s account internally and failed to consider it in light of the objective material.
8. Mr Shilliday submitted that the determination was complete and should stand. He remarked that even the terms permission were ambiguous and failed to identify any error of law. It was clear that the Tribunal found the appellant’s credibility to be low. The grounds amounted to a disagreement with the findings, which were sustainable. The Tribunal is assumed to have regard to the objective material notwithstanding that the Secretary of State is not obliged to produce it. The Tribunal did not need in any event to go to the objective material in view of its findings as to credibility. The determination fully assessed the evidence including the documentary evidence in dismissing the appeal.
9. Ms Nnamani relied on the original envelope found in the respondent’s file. She submitted that the evidence clearly showed that it was sent from Iraq. She submitted that the appellant had produced objective material in his bundle which the Tribunal was obliged to consider. The appellant had dealt with the most recent incident in evidence and his comments on the refusal letter.

Discussion and conclusion

10. The main criticism of the determination raised by Ms Nnamani in her submissions is that the Tribunal failed to assess the claim holistically and

that it placed weight on the appellant's failure to provide accurate dates and time. Her oral submission that the Tribunal did not engage in any assessment of the appellant's evidence in light of the objective material, was not a specific ground that formed part of the grounds for permission. The grounds argued that the Tribunal's credibility findings as regards the documentation were made in isolation and that a holistic assessment was not made. I shall deal with each ground in turn and then address the overall concern.

11. Firstly, there was no reliance in the grounds of appeal on any point in relation to the medical evidence. In the absence of any application to amend the grounds of appeal, and none was made, the submission made as regards the medical evidence is not arguable. In any event I find no error of law because the Tribunal set out clear and sustainable reasons for why it placed little weight on the Dr's findings as to the physical injury. The Tribunal found that the doctor specialised in psychiatry and found his opinion as to the appellant's mental state to be reliable evidence. It found that he had no qualification to deal with scarring and he had not considered any alternative cause for the scars. [17]
12. I am satisfied that the ground relating to the evidence of documentation sent from Iran lacks merit. The Tribunal, having seen the original envelope, was entitled to find that it was reliable evidence as it failed to show the identity of the sender, recipient or date of postage [12].
13. As regards the Tribunal's consideration of the documentary evidence, I find that there can be no complaint. It carefully looked at each document and its content and found that there were inconsistencies or discrepancies with the account given by the appellant. The complaint is that the Tribunal failed to take into account the difficulty of the appellant in recalling dates. In considering the appellants' account the Tribunal referred to the detailed account given in his asylum interview of his return to Iran in early 2010. The Tribunal found that this contradicted the dates shown on the documents purportedly issued at the time of his arrest which referred to dates at the end of 2010. The findings are entirely sustainable. Even if the appellant were unable to recall precise dates, given that the events were recent, it was reasonable that he could recall whether an event was at the beginning or end of the year.
14. I find that the Tribunal's findings [27-29] that the PJAk incident was implausible is fully and properly reasoned in the determination. The Tribunal found that the appellant's account of his escape in interview was significantly different from that given in evidence. There was no objective evidence in support of this aspect of his claim that could have rendered it plausible.
15. As to the concern that the Tribunal considered the evidence separately and in isolation of each other, I can find no real basis to support this submission. I specifically asked Ms Nnamani to draw my attention to that objective evidence which would if taken into account have supported the

appellant's case. As stated above she referred only to the background material for Iran post 2009 in the COIR 2013 at 20.13 in support of the generality of the appellant's claim. I am satisfied that there was no background evidence that the Tribunal did not take into account that would have caused the Tribunal to reach a different conclusion overall. I am satisfied that the Tribunal did look at the totality of the appellant's claim including background material included in the appeal bundle. The Tribunal found [31] that the appellant's evidence was vague and devoid of detail. The determination expressly dealt with the issue of the appellant's difficulty in recalling dates and found no good reason for his vagueness [31]. The Tribunal has evaluated all the evidence together including the appellant's account, the documentary evidence and the medical evidence and reached proper intelligible and adequate reasons for arriving at the conclusion that the claim lacked credibility.

Notice of Decision

**There is no material error of law in the determination .
The determination shall stand.**

Anonymity direction is made.

Signed

Date 10.11.2014

Judge GA Black
Judge of the Upper-tier Tribunal

**TO THE RESPONDENT
FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 10.11.2014

Judge GA Black
Judge of the First-tier Tribunal