



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

Appeal Number: AA/09784/2014

THE IMMIGRATION ACTS

**Heard at North Shields
On 6 July 2015
Prepared on 7 July 2015**

**Determination Promulgated
On 22 July 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

**O. S.
(ANONYMITY DIRECTION)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Pickering, Counsel instructed by Parker Rhodes
Hickmotts

For the Respondent: Mr Kingham, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant entered the United Kingdom using her own Iranian passport and with the benefit of entry clearance as a visitor on 15 August 2011, and she did so again on 22 July 2012.
2. On 10 November 2013 the Appellant claimed asylum, saying that she had returned to Iran on 10 August 2012, and had then re-entered the UK illegally by air under an assumed identity on 10 November 2013. That application was refused on 31 October 2014, and in consequence a removal decision was made in relation to her.

3. The Appellant appealed to the Tribunal against the removal decision and her appeal was heard on 22 December 2014, and dismissed by decision of Judge Buchanan, promulgated on 15 January 2015. Whilst the Respondent had accepted that the Appellant was who she claimed to be, he was not satisfied the Appellant had told the truth about what had occurred after she had returned to Iran, or whether she had come to the adverse attention of the Iranian authorities.
4. The Appellant's application to the First Tier Tribunal for permission to appeal, was refused on the basis it was no more than a disagreement with Judge Buchanan's decision. Undaunted the application was renewed to the Upper Tribunal, when it was granted by Upper Tribunal Judge Pitt on 21 May 2015 on the basis that it was arguable there had been an error of law in the approach taken to the evidence, although it was noted that this should not give the Appellant too much hope.
5. The Respondent filed a Rule 24 Notice of 2 June 2015 in which she asserted that the Judge had given adequate reasons for his adverse credibility findings and that the grounds failed to engage properly with the decision and were in truth merely a series of disagreements and attempts to reargue the appeal.
6. Thus the matter comes before me.

Error of Law?

7. The Appellant was twice granted entry clearance as a visitor following a successful appeal to the Tribunal, in order to visit her sister and brother in law [A1]. The Appellant was able to travel on both occasions in the company of her father, who was also granted entry clearance as a visitor for the same purpose. Curiously therefore the Appellant denied at her screening interview any knowledge of her sister's address, phone number, or immigration status [B17 Q6.8], although nothing turns upon that for the purpose of this hearing.
8. The Appellant's brother in law had travelled to the UK in 2003, had unsuccessfully claimed asylum, and all of his appeal rights against a decision to remove him in August 2003 were long exhausted by 2006.
9. The Appellant's sister had travelled to the UK on 1 August 2006. She was also an unsuccessful asylum seeker, whose own appeal to the Tribunal against a decision to remove her had been dismissed by Determination of Judge Dawson promulgated on 23 December 2006. She too, travelled to the UK using her own Iranian passport, and a grant of entry clearance as a visitor, and she had travelled in the company of her two children been reunited with her husband, and had promptly claimed asylum.
10. The Determination of Judge Dawson was relied upon by the Respondent at the hearing before Judge Buchanan as part of the basis for the cross-examination of both the Appellant and the Appellant's sister. The Appellant's sister had been called to give evidence in support of the Appellant. The findings of fact made by Judge Dawson,

and the results of that cross-examination were relied upon in support of two submissions advanced on behalf of the Respondent to the effect that she was supporting a false account by the Appellant; (i) that the Appellant's sister was not in any event a reliable witness, because she had relied upon a false account in her own asylum claim, and, (ii) that her evidence to Judge Buchanan was not consistent with that of the Appellant.

11. It is accepted by Ms Pickering before me that the Appellant's sister did not admit to Judge Buchanan that she had told lies to Judge Dawson in 2006 when giving evidence to him. It is plain from both the decision, and her own witness statement, that the evidence given by the Appellant's sister to Judge Buchanan was that the account she had given to Judge Dawson in 2006 was true, notwithstanding Judge Dawson's rejection of it as false [6.14 & 6.21].
12. In these circumstances I am satisfied that there is simply no merit in Ground 2. There was material damage to the general credibility of the Appellant's sister. Moreover the Appellant and her sister were not consistent in their evidence about whether their father had ever been arrested, and the Judge was perfectly entitled on the evidence before him, for the reasons that he gave, to conclude that their father was not a person who had attracted any adverse attention from the Iranian authorities. Notwithstanding Ms Pickering's attempt in her submissions to me to develop Ground 2 in a manner which she accepted went well beyond that in which she had drafted the complaint, there was simply no error in either the Judge's conclusion that the evidence of the Appellant's sister was not consistent with that of the Appellant, or, that the account relied upon by the Appellant was itself not credible.
13. Ground 1, as advanced, was a complaint that the Judge had failed to take material evidence into account. There were four limbs to that complaint.
14. The first limb was a complaint that the Judge overlooked the explanation offered by the Appellant for her failure to delete from her computer the electronic copy of a book received by email. There was however no explanation for that failure, as such, merely the Appellant's assertion that she had failed to do so when she had taken the precaution of destroying the physical copy of the book she had printed because she had overlooked the need to do so. That was no explanation at all. She said that she had destroyed the physical copy of the book in recognition of the serious risk to her safety that would result if she were caught in possession of it. She had no explanation to offer for her failure to delete the electronic copy, and it was this failure which the Judge was commenting upon adversely. Her claim that she had overlooked the need to do so, is not in this context an explanation that was overlooked. The Judge's point, which was a reasonable one, was that she had been at great pains to tell him how dangerous it would be to be caught in Iran with such a book, and so given that knowledge, he did not believe that she would have acted

as she had claimed to have done. That finding was well open to him on the evidence, and it was adequately reasoned.

15. The second limb was a complaint that the Judge should not have found that the Appellant's father had access to the Appellant's email account, even though that was her evidence. The reason for the complaint was that her father had only been given such access for banking purposes. Again there is no merit in the complaint. The purpose for the grant of access to the email account was not relevant to the point the Judge was making. At interview the Appellant had claimed that the electronic copy of the book was not in any way hidden from view in her computer, or in any part of her computer that her father did not have access to. She said "*it was on my email account which was kept open because my dad also used it, so when they saw the laptop they could see the email*" [Q63]. The Judge was therefore perfectly entitled to make the findings that he did make in relation to this evidence [6.19 - 6.21].
16. The third limb was a complaint that the Judge failed to take into account in his decision [6.22] the Appellant's claim that when she most recently left Iran, she did so illegally. The point that the Judge was making however in this passage was that on her own account she had been able to enter and leave Iran without difficulty twice. There was no error in his doing so, and there is no merit in the complaint.
17. The fourth limb was a complaint that the Judge failed to take into account the answer given at interview [Q93] about her attendance at a heavy metal music concert in Iran. That answer did not however offer the Judge any assistance with the issue that the Judge was addressing. On the Appellant's own account she believed herself to already be of adverse interest to the Iranian authorities, yet she claimed to have taken what on her account was the very serious risk of attending such a music concert, although she could not name the band that had played. The Judge was perfectly entitled to assess the weight to be given to that evidence in the way that he did, and for the reasons that he gave.

Conclusion

18. I am satisfied that the criticisms that have been advanced of the decision are, at best, no more than a disagreement with the Judge's conclusions. The approach taken by the Judge to the evidence in his decision does not disclose any error of law that requires that decision to be set aside and remade.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 15 January 2015 contains no error of law in the decision to dismiss the Appellant's appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

Signed
Deputy Upper Tribunal Judge JM Holmes
Dated 7 July 2015

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal)
Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed
Deputy Upper Tribunal Judge JM Holmes
Dated 7 July 2015