



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/10392/2015

Appeal Number:

THE IMMIGRATION ACTS

Heard at:	Columbus House,	Decision	&	Reasons
Newport		Promulgated		
On:	14 July 2016	On 19 July 2016		

Before

DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS

Between

AHMAD REZA AHADI POUR
(no anonymity direction made)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr A Joseph, Counsel instructed by NLS solicitors
For the Respondent: Mr I Richards, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge O'Rourke in which he dismissed the appeal of the Appellant, a citizen of Iran, against the Secretary of State's decision to refuse asylum and issue removal directions.

2. The application under appeal was made on 22 March 2015 and was refused on 17 July 2015. The Appellant exercised his right of appeal to the First-tier Tribunal. This is the appeal which came before Judge O'Rourke on 19 January 2016 and was dismissed. The Appellant applied for permission to appeal to the Upper Tribunal. The application was granted by First-tier Tribunal Judge Dineen on 18 February 2016 in the following terms

The notice complains that the judge failed to apply the lower standard of proof, and expresses in [4-17] numerous disagreements with the judge's findings on credibility.

Apart from the complaint about the lower standard of proof, the notice merely expresses disagreement with the judge's decision. However, the lower standard of proof is not mentioned in the decision and for that reason only I find it to be arguable that the judge erred in law.

3. By a rule 24 response dated 1 March 2016 the Respondent opposed the appeal arguing that the judge gave adequate reasons for his credibility findings.
4. At the hearing before me Mr Richards appeared to represent the Secretary of State and Mr Joseph represented the Appellant.

Background

5. The history of this appeal is detailed above. The facts, not challenged, are that the Appellant is a citizen of Iran born on 3 March 1989. He left Iran in late 2014 arriving in the United Kingdom on 21 March 2015 using a false passport and applied for asylum the next day. His application was refused and in dismissing his appeal on asylum grounds the Judge found that the core of his account lacked credibility.
6. The grounds of appeal are summarised in the grant of permission. It is suggested that the Judge failed to apply the lower standard of proof and that as such his credibility findings are undermined.

Submissions

7. For the Appellant Mr Joseph referred to paragraph 4 of the statement of reasons and said this is the only mention of the

standard of proof. There is no reference to the applicable standard of proof at paragraph 22 where the findings of fact commence. This lack of reference indicates that too high a standard was applied. At paragraph 23 in dealing with the Appellant's claim to face danger having committed adultery the Judge takes adverse inference over discrepancies in dates. Arguably these discrepancies were neither material or substantial and this indicates that too high a standard was applied. Equally the finding that the Appellant's partner would not have told her husband of the affair was not sufficient to make an adverse finding. Similarly, in paragraph 24 when dealing with the Appellant's claimed atheism the Judge took adverse inference from immaterial matters despite finding that the Appellant preferred to live a secular lifestyle. Again this indicates that too high a standard was applied.

8. On behalf the Secretary of State Mr Richards said that there was no material error of law. The Judge refers appropriately to the standard of proof at paragraph 4 and there is nothing to suggest that he loses sight of that self-direction. He did not find the Appellant's account of adultery credible and so far as his claimed atheism was concerned he found the Appellant's account wholly implausible. There is no sense of imposing a high threshold. There is nothing to indicate that the Appellant came anywhere near to persuading the Judge that his account was true or that he was at risk on return.

Error of law

9. In my judgement the decision of the First-tier Tribunal does not disclose a material error of law. The appeal was dismissed because the Judge did not believe the Appellant. He gives cogent reasons for reaching his conclusion. Contrary to what is said in the grant of permission the standard of proof is mentioned in the statement of reasons. It is not incumbent upon a judge to recite the lower standard of proof in an asylum decision and where the judge does refer to the standard of proof it is not an error of law for him not to repeat it. The Immigration and Asylum Chamber is an expert tribunal and the 'lower' standard of proof is deeply ingrained within the culture of the judiciary. Where it is asserted that a First-tier tribunal Judge has nevertheless applied a higher standard of proof there need to be substantial reasons for such an assertion. In this case there are no such substantial reasons, the grounds of appeal reveal no more than a disagreement with credibility findings that were manifestly open to the Judge on the evidence that was before him.

10. My conclusion from all of the above is that the decision of the First-tier Tribunal contains no error of law material to the decision to dismiss the appeal

Summary

11. The decision of the First-tier Tribunal did not involve the making of a material error of law. I dismiss the Appellant's appeal.

Signed:

Date: 15 July 2016

A handwritten signature in black ink, appearing to read 'J F W Phillips', written in a cursive style.

**J F W Phillips
Deputy Judge of the Upper Tribunal**