



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

Appeal Number: AA/11814/2014

**THE IMMIGRATION ACTS**

**Heard at North Shields**

**Decision and  
Promulgated**

**Reasons**

**On 23 February 2016**

**On 9 March 2016**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**S H P**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Mr T D H Hodson, of Elder Rahimi, Solicitors

For the Respondent: Mr J Kingham, Presenting Officer

**DETERMINATION AND REASONS**

*Introduction.*

1. The appellant is a citizen of Iran, aged 36 at the date of the hearing in the Upper Tribunal. The First-tier Tribunal made an anonymity order. The matter was not addressed in the Upper Tribunal. The order remains in place.
2. The respondent rejected the appellant's asylum claim for reasons explained in a decision dated 17 December 2014. It was accepted that the appellant had given a clear and consistent account about the process of obtaining a divorce (paragraph 12). It was not accepted that her father had threatened her (paragraph 13), that her husband caught her with a former boyfriend, or that she was forcibly detained and escaped

(paragraph 14). On the basis of such allegations as had been accepted, she had no good claim (paragraph 16).

3. The letter went on to consider the claim “at highest” and found that it would be defeated by legal sufficiency of protection (paragraphs 18-23) and alternatively by internal relocation (paragraphs 24-29).
4. The appellant’s grounds of appeal to the First-tier Tribunal essentially challenge the credibility findings. They foreshadow no reasoned attack on the alternative conclusions based on sufficiency of protection and on internal relocation.
5. First-tier Tribunal Judge Buchanan heard the appellant’s appeal on 17 April 2015 and dismissed it for reasons given in his decision issued on 9 June 2015.
6. The appellant sought permission to appeal to the Upper Tribunal.
7. Ground 1, expressed over paragraphs 5-13 of the application, criticises the reasons given for the credibility findings.
8. Ground 2 relates to a court summons and two warning notices which the appellant produced at the hearing in the First-tier Tribunal. The judge is said to have gone wrong in his approach to what he considers the appellant ought to have done, and in concluding that the documents were not genuine, going “wholly contrary to the clear guidance” in *Tanveer Ahmed* [2002] UKAIT 00439.
9. A Designated Judge of the First-tier Tribunal refused permission, on the view that the grounds going to credibility were no more than disagreement, that it was open to the judge to find the documents were not genuine, and that *Tanveer Ahmed* was no authority to the contrary.
10. The appellant resumed her application to the Upper Tribunal, maintaining and amplifying the previous grounds.
11. On 14 October 2015 a Deputy Upper Tribunal Judge granted permission on both grounds.
12. In a Rule 24 response dated 4 November 2015 the respondent argues that the First-tier Tribunal decision thoroughly engages with the facts and arguments put forward in the First-tier Tribunal; that the grounds of the challenge “... merely represent a detailed re-arguing of the case rather than an identification of any material errors in law”; and that nothing in *Tanveer Ahmed* discloses error.

*Submissions for appellant.*

13. The judge erred by relying on his subjective views of what was plausible. At paragraph 7.15 the judge found that alleged events in an orchard were unlikely because the orchard was open to anyone to gain access, with

walls which anyone could easily get over, and an open door. This failed to take account of the appellant's description in her asylum interview at Q/A 21 and 22-26 which showed that the orchard was an out-of-the-way place, not in the public eye.

14. The judge thought it unlikely that the appellant would put her life and the life of her former boyfriend at risk by enlisting the help of a friend to arrange a meeting in a public place, but this failed to take account of the appellant having consistently made it clear that it was only surmise on her part that she might have been betrayed by her friend. This later supposition did not show that the train of occurrences was any less likely.
15. The judge accepted more of the appellant's account than the respondent did, but where he doubted the evidence he made assumptions which were not based on the evidence from the appellant. He speculated regarding her state of mind and the likelihood of her running certain risks, which put matters in the wrong psychological context.
16. The judge made "equally questionable projective judgments" about the likelihood or plausibility of threats made by the appellant's husband against her boyfriend, "assuming a form of rational decision-making by the husband" which in such a context "can very commonly be found to be conspicuously absent".
17. The second ground of appeal opens along the lines that the judge's adverse comments about the appellant not producing the court summons and two warning notices at an earlier date are "open to serious reservations" because this imposes the judge's assumptions of what the appellant ought to have done, which should not have been "approached from such a wholly non-particularised and general normative stance".
18. The conclusion that the documents were not genuine failed to apply the requirement for an assessment in the round, along with other sources of evidence, rather than in isolation. The judge had no evidence that the documents were forged.
19. Summing up, Mr Hodson said that for all the reasons advanced in the grounds and submissions the judge's conclusions were flawed, so as to require a fresh hearing in the First-tier Tribunal.

*Submissions for respondent.*

20. The first ground relied on what the appellant said in her witness statement, but overlooked her oral evidence at the hearing, recorded also at paragraph 7.15. The appellant said that anyone could easily get over the walls and there was an open door. In response to my question, Mr Kingham (who was also the appellant's representative in the First-tier Tribunal; the appellant had another representative from the same firm) acknowledged it had not been explored at the hearing whether the door was said to be open in the sense of lying ajar, or in the sense of being

unlocked. However, he submitted that on the evidence the judge was plainly entitled to find this was a relatively public place and not one the appellant would choose for a risky meeting.

21. The judge reasoned his finding that the appellant's actions had not proceeded as she claimed. His determination should be considered as a whole and not discarded on the basis of generalised forensic criticisms such as the alleged subjectivity of the judge. According to the appellant's evidence her husband threatened to rape her former boyfriend and to film and publicise the event, a course of conduct which would entail a significant risk of his own execution. It was open to the judge not to accept such an account.
22. It should also be noted that in paragraph 7.15 the judge held that the appellant had embellished her account as she went on, adding additional information which would have been likely to have been recounted at first instance (a reference to her and her former boyfriend having had sexual relations). The grounds of appeal did not criticise that part of the reasoning.
23. The provenance of documents was highly relevant to the weight to be attached. The appellant produced the envelope in which documents were said to have been sent to her but the address was cut out. This was part of the documentary trail. She was unable to explain sensibly why she did not bring the documents to the attention of the Home Office as soon as they reached her possession, or why she had not mentioned them earlier, when she knew about them two months prior to receiving the respondent's decision. The judge at paragraph 7.13 went into why he did not find her account regarding the documents reliable. At paragraph 7.11 he had noted that the documents in themselves did not appear consistent with background evidence about procedures in Iran, and that summonses were both easily obtained illegally and easy to forge. The judge had paid close attention to the documents at both paragraphs 7.11 and 7.13, and had given ample reasons for placing little weight on them. He had not erred by looking at them out of context.

*Reply for appellant.*

24. The background evidence did not disclose every single feature of court and official processes in Iran. The fact that documents of the particular type produced were not mentioned was not a good reason for finding them not to be genuine. The judge's reasoning therefore came down to no more than the cutting out of the address from the envelope, a feature which she could not explain but to which she was not party. It was she who produced the envelope. There was nothing in this which logically yielded an adverse inference. The judge might have been entitled to attach some significance to delay in disclosure, but there was still insufficient in the evidence as a whole to find against her.

*Conclusions.*

25. The judge had to decide whether the incident in the orchard took place as described, or at all. Orchards lying just outside city boundaries in Iran are often described as relatively private places, but the information that this orchard was open to anyone to gain access, that anyone could easily get over the walls, and that there was an open door, all came from the appellant at the hearing.
26. It is easy to describe conclusions which go against an appellant as subjective and based on a false perspective of plausibility, but the judge's findings on this central matter appear to be firmly based on the evidence heard, and well within the range of inferences which a judge might sensibly draw.
27. The same applies to the finding that even an enraged husband was unlikely to threaten to carry out, film and publicise an act of homosexual rape, against the legal and cultural background of Iran.
28. *Tanveer Ahmed* says that it is for an appellant to establish the reliability of documents on which she founds. The matter is to be resolved after looking at all the evidence in the round. These principles are to be applied even if there is nothing to show on the balance of probability that documents are forged. There is seldom the need to make such an allegation, or evidence strong enough to support it.
29. The appellant did not show that those principles disclose any error by the judge in this case. The appellant's account appears to be that the documents were sent by her brother at her request, and came into her hands through a paternal cousin who lives in the UK (and who, I was told, accompanied her to the hearing in the UT). The judge founded at the end of paragraph 7.13 on (a) failure to bring the documents promptly to the respondent's attention, (b) notable absence of detail about the alleged recipient in the UK, (c) a weak explanation for asking that documents be sent to a relative in the UK, and (d) absence of consistency with the background evidence about summonses and procedures (which refers back to paragraph 7.11). That is a respectable set of reasons, properly placed in context, for declining to accept the documents as genuine.
30. While the above is sufficient to dispose of both grounds of appeal, I note in passing that the judge appears to have permitted the appellant to focus the case solely on credibility. He omitted the issues of sufficiency of protection and internal relocation, either or both of which might have resolved the case, irrespective of credibility. The appellant does not seem to have put forward significant argument on those matters. The judge should have resolved them, even in the alternative, which might have avoided or at least simplified further proceedings.
31. I do not find that the judge made any material error in his credibility findings or regarding the documents. The determination, as a whole, is a properly reasoned explanation to the appellant of why her appeal failed. The grounds do not resolve into more than reassertion and disagreement.

32. The determination of the First-tier Tribunal shall stand.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

29 February 2019  
Upper Tribunal Judge Macleman