



UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

APPEAL NUMBER: PA/04360/2016

THE IMMIGRATION ACTS

Heard at: Field House
On 17 May 2017

Decision and Reasons Promulgated
On 8 June 2017

Before

Deputy Upper Tribunal Judge Mailer

Between

MR HAWKAR MAHMOUDI
NO ANONYMITY DIRECTION MADE

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr S Khan, counsel, instructed by JD Spicer Zeb Solicitors
For the Respondent: Mr K Norton, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Iran, whose date of birth was originally in dispute; following a Merton compliant assessment on 13 February 2016 he was assessed to be 20 years old.
2. His appeal against the decision of the respondent dated 18 April 2016 to refuse his protection claim was dismissed by First-tier Tribunal Judge B A Morris in a decision promulgated on 19 January 2017.
3. The appellant appeals with permission from Upper Tribunal Judge Rimington, who found it to be arguable that the Judge gave disproportionate weight to issues which are peripheral to the appellant's main claim and that she thereafter failed to make relevant findings when dismissing the core of his account.
4. Mr Khan, who did not represent the appellant before the First-tier Tribunal, (where the appellant appeared in person), adopted the grounds of appeal prepared by other counsel.
5. In the grounds it is accepted that the Judge was entitled to take into account when assessing the appellant's credibility, any inconsistencies including those relating to his age and his journey to the UK.
6. Mr Khan submitted however that the Judge gave disproportionate weight to issues which were peripheral to the appellant's main claim of subjective fear, namely that he was at risk of persecution or harm on return by reason of his support for the Peshmerga. The appellant had contended that his father was killed 11 years ago by the Iranian intelligence agency. He claimed to have helped the PDKI. There was a raid on his home and the authorities said that they wanted to arrest him. The appellant maintained that he delivered letters for the PDKI and whilst not officially a member he supported them. This was noted by the Judge at [19].
7. The Judge found that the appellant gave no reasonable explanation for the discrepancies as to his date of birth [30]. The screening interview gave his date of birth as 11 August 1997. During the age assessment he gave his date of birth as 11 August 1998 and in answer to various questions gave answers which would have made him either 23, 24, 18 or 17. When the discrepancies were put to him by the assessors, he disputed the dates or blamed the interpreter, stating that the professionals had recorded the information incorrectly.
8. In his witness statement he said he was born in 1998 and in oral evidence stated that he was born in 1997.
9. The Judge also noted at [31] that the details he gave as to his journey to the UK were not consistent. In 3.3. of the screening interview he claimed to have gone from Iran to Turkey, Greece, Macedonia, Serbia, Croatia, Austria, Hungary, Germany

and France. In his asylum interview he said he travelled from Iran to Turkey, Greece, Serbia, Austria, Germany and France. Further, the period of time he claimed to have stayed in each location was not consistent. He said that he stayed for 15 days in Turkey, three days in Germany and over three months in Calais. At the date of his interview on 25 November 2015 he claimed to have left Iran about four months previously. During his age assessment in February 2016 he said that he left Iran five months previously and that it took him two months and ten days to travel to the UK. Those answers would have meant that he left Iran in September 2015.

10. In his asylum interview he said he was in France for about two months and ten days which he told the age assessors was the period of time that the entire journey to the UK had taken him. He also gave inconsistent and conflicting evidence relating to his time in France. He claimed to have been in the Jungle for about 45 days. That was inconsistent with the information he gave at the screening interview and at his asylum interview. These inconsistencies undermined the credibility of his evidence and of his claim [31].
11. The Judge noted that he attempted to explain away various discrepancies by arguing that poor interpretation had been provided by various professionals but at the screening interview, a second Kurdish Iranian was being interviewed at the same time and confusion had arisen as a result of that. In support of that assertion he stated in his asylum interview that he was interviewed with someone else and the question was asked of that "guy who was sitting beside me and he said Kalashin." The interpreter was "via telephone" so he thinks they were mixed up and wrongly recorded this on the interview record. He claimed that the same person has been interviewed by his solicitor and has confirmed his place of birth as Kalashin.
12. During his asylum interview he twice said that he was born in Ganabo Village. The respondent did not accept his explanation, pointing out that his solicitors had not provided any evidence of this alleged interview with the other man, or even confirmed that it had happened. There was no explanation as to how the appellant's solicitor would have been aware of this mistake during the screening interview, identified the other person, contacted him and interviewed him. These matters had been clearly set out in the refusal letter and the appellant's solicitors continued to represent him for a further four months. However, there was no evidence from his solicitors confirming this alleged confusion during the screening interview. She found that this matter undermined his credibility and the credibility of his claim [33].
13. She found that the appellant used the excuse of such confusion for different inconsistencies during his oral evidence. He used it as an answer to the question why he had not said in the screening interview that he was a supporter of the

Peshmerga, why he had said in answer to question 95 that a friend of Saman was arrested whereas in his witness statement he said it was Saman who was arrested. Moreover, he used the excuse when stating in his screening interview that he left "four months ago", but later said he left in September 2015, and why he said in his screening interview that his passport had been lost at sea and subsequently stated that he never had a passport. All those discrepancies undermined his credibility as well as the credibility of his claim. The fact that he attempted to rely upon the alleged confusion as an explanation of the clear discrepancies undermined that credibility [34].

14. She found at [35] that the evidence of his witness did not assist him, and on the contrary, disclosed a further discrepancy undermining his case. The appellant had been clear that he and his witness were not very close and did not know each other very well. The witness, however, stated that they were friends and became friends in Iran.
15. Mr Khan sought to rely on the decision of the Immigration Appeal Tribunal in YL (Rely on SEF) China [2004] UKIAT 00145.
16. In that decision, the Tribunal stated at [19] that it has to be remembered that a screening interview is not done to establish in detail the reasons a person gives to support her claim for asylum. Further, the screening interview may well be conducted when the asylum seeker is tired after a long journey. These things have to be considered when any inconsistencies between the screening interview and the later case are evaluated.
17. Mr Khan submitted that the appellant arrived in the UK on 25 November 2015 and his screening interview was held the same day. The interview noted that he stated that he felt fit and well. He had a Kurdish Sorani interpreter. He was told that if he does not understand the interpreter he should tell the interviewing officer.
18. Mr Khan submitted that in the circumstances, limited weight only should have been given to the inconsistencies. In the circumstances the Judge gave disproportionate weight to peripheral issues.
19. The Judge only identified two discrepancies in relation to the appellant's subjective fear. At [34] the Judge simply identified his failure to mention the fact that he was a supporter of the Peshmerga during his screening interview and the inconsistency relating to whether it was his friend who was arrested or that person's friend who was arrested.
20. He contended that the Judge 'failed to otherwise address' the appellant's account of subjective fear or make specific findings upon it including the alleged death of his father and his participation in assisting the PDKI by delivering letters.

21. On behalf of the respondent, Mr Norton submitted that it was not only the screening interview that the Judge referred to. The Judge had regard to the submissions at [23] where issues relating to his claim had been mentioned. Between the date of his screening interview and his substantive interview there was no evidence confirming the alleged basis for the confusion. The appellant's solicitors sent a letter to the UKBA prior to the substantive asylum interview scheduled for 7 February 2016. His witness statement was attached. There was however no comment or any objection that was raised regarding the alleged source of confusion which occurred during the screening interview.
22. The Judge had regard to the decision in SSH and HR (Illegal Exit: Failed Asylum Seeker) Iran CG [2106] UKUT 00308 (IAC). Even if he left Iran illegally she found that he had not shown to the lower standard that he would be at risk on return [37].

Assessment

23. Judge Morris has given a thorough and detailed decision. It is contended however that she gave disproportionate weight to issues peripheral to his main claim; and that she failed to make relevant findings when dismissing the core of his account.
24. I have had regard to the appellant's explanation that he gave during the screening interview as to why he did not say that he was a supporter of the PDKI, namely, that he might not have said it as he was tired. The Judge was aware that he had been in the back of a lorry for a lengthy time.
25. The Judge also noted at paragraph [32] that during his oral evidence the appellant claimed that the journey was organised by smugglers and that they beat him up and tortured him on the journey. However, she noted that such a serious allegation did not appear anywhere else in his claim. She found this to be a "last minute appearance" which undermined his credibility including the credibility of his claim.
26. Nor did the appellant state in his screening interview that he had been a supporter of the Peshmerga. The Judge noted that he sought to use the excuse of confusion at the screening interview for further inconsistencies he gave during his oral evidence. I have already referred to them at paragraph [13] above and do not repeat them.
27. Moreover, during his screening interview the appellant did not mention the basis of his claim and stated that he had never been involved with politics. He stated at paragraph 3.1 that he came to the UK to make his own life and to get away from political problems. He stated at 4.1 that if the government knows he is here and he is sent back he could be in danger. He fears the government. He does not support them.

28. Moreover, the Judge had regard to the submission at [23] that there was no consistent account as to how many times he delivered letters for the Peshmerga. At interview he said seven or eight but in his witness statement he said 10-15.
29. Regarding the asserted confusion, the Judge noted that the appellant was represented by solicitors after his screening interview and prior to his asylum interview. Notwithstanding that, and notwithstanding his assertion in his asylum interview that other persons had been interviewed by his solicitor confirming that his place of birth was Kalashin, there was no evidence from the appellant's solicitor confirming this asserted confusion. Nor was it mentioned in his witness statement which was sent by the solicitors prior to the date of his asylum interview.
30. It is evident that the Judge found the appellant to be unreliable not only in respect of what were asserted to be "peripheral matters" but also in relation to the core of his claim.
31. I am satisfied that she considered his claim regarding his involvement in politics, including his assertion that he delivered letters for the Peshmerga. In relation to those assertions, there was no consistent account as to how many times he did this. This varied from seven to eight at interview and from ten to fifteen in his witness statement. There are other matters relevant to his claims which were referred to by the Judge which she set out in the presenting officer's submissions at [23].
32. The findings she made are sustainable on the evidence as a whole. Her conclusions on the core of his claim were properly reasoned and explained.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of an error on a point of law. The decision shall accordingly stand.

No anonymity direction is made.

Signed

Date 5 June 2017

Deputy Upper Tribunal Judge C R Mailer