



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

Appeal Number: PA059042016

THE IMMIGRATION ACTS

Heard at Bradford

On 13 February 2017

**Decision &
Promulgated
On 2 May 2017**

Reasons

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

[F S]

~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Worthington, Parker Rhodes Hickmotts, Solicitors
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, [FS], who is aged over 18 years, claims to be a citizen of Iran. He appealed to the First-tier Tribunal (Judge M A Khan) against a decision of the Secretary of State dated 25 May 2016 to refuse to grant

him asylum and to remove him from the United Kingdom. The First-tier Tribunal (in a decision promulgated on 10 November 2016) dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I find that the decision of the First-tier Tribunal falls to be set aside. I have reached that decision for the following reasons. At [30], Judge Khan wrote:

“In his evidence, the appellant said that his father paid him 100 Rihals which was equivalent to 10 Tumans. Why would his father give the appellant reward for his work in Rihals and not in Tumans which is an Iranian currency? I do not find the appellant’s evidence credible or consistent. I do not accept the appellant’s evidence that he is a national of Iran and that he will be persecuted for assisting his father in his smuggling business in his return to Iran.”

3. Both parties accept that the judge’s analysis is factually incorrect. As the grounds of appeal indicate, although the Tuman is no longer an official unit of Iranian currency, Iranians commonly express amounts of money and, in particular, prices of goods in Tumans. I understand that 1 Tuman is equal to 10 Rihals. Judge Khan appears to have believed that a Rihal was not a unit of Iranian currency whereas a Tuman (a term for a multiple of Rihals) was a unit. I accept Mr Worthington’s submission that that the judge’s misapprehension has led him directly to find that the appellant is not an Iranian national as he claims to be. It is a finding which cannot stand.
4. In essence, the Rule 24 reply of the Secretary of State asserts that the judge made sufficient other negative findings in respect of the appellant’s credibility for the factual error at [30] to be ignored. I do not agree. At [28], the paragraph where the judge described the appellant as having been “extremely vague and evasive” in giving his evidence, the judge has arguably misunderstood the written evidence before him. The judge found that there was a “serious contradiction and inconsistency” between the appellant’s accounts as to how he had found that his father had been arrested. On the one hand, the appellant appears to have said that his father’s cousin had contacted the appellant’s mother who told him of the arrest and, in a separate account, a villager by the name of Mohammed had informed the appellant. The contradiction would seem to be not as stark as Judge Khan appears to have considered. The answers which the appellant gave in his asylum interview at [27], [97] and [102] indicate that, from an early stage of his claim for asylum, the appellant had indicated that a neighbour called Mohammed had been involved in notifying him of his father’s arrest. I do not say that the appellant has necessarily given consistent evidence but the “*serious* inconsistency” [my emphasis] identified by the judge is, on this analysis, not justified. There will need to be a new fact-finding exercise as all the findings of fact of Judge Khan shall be set aside. In consequence, the new hearing is better conducted in the First-tier Tribunal to which this case is now returned.

Notice of Decision

5. The decision of the First-tier Tribunal promulgated on 10 November 2016 is set aside. None of the findings of fact shall stand. The appeal is remitted to the First-tier Tribunal for that Tribunal to re-make the decision.

No anonymity direction is made.

Upper Tribunal Judge Clive Lane

12 April 2017