



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

Appeal Number: PA/04871/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 14 February 2018**

**Decision &
Promulgated
On 7 March 2018**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

**[A A]
(~~NO ANONYMITY ORDER~~)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Thirumaney, Counsel instructed by Shervins Solicitors
For the Respondent: Ms Ahmed, Senior Home Office Presenting Officer

DECISION AND REASONS

The appellant and proceedings

1. The appellant is an Iranian citizen. He appeals with permission granted at the First-tier Tribunal, a decision of Judge Morris promulgated on 20 November 2017 in which the judge dismissed his appeal against the refusal of international protection. The judge found that when he previously voluntarily returned to Iran from the UK, travelling on his own passport and following a failed asylum claim and appeal, he did not come

to the adverse attention the attention of the authorities. The judge rejected his account that his attendance in the audience of a TV programme during the earlier period of residence in the UK as a student, had led to his being detained and subsequently released on his father's recognisance of property, when he had fled back to the UK with an agent from Iran, on credibility issues. The judge gave numerous and cogent reasons for those conclusions which are not challenged in these grounds.

2. The appellant also raised a sur place claim based on his face-book activity. It was the treatment of this part of his claim that Mr Thirumaney submitted revealed error. The appellant had posted links to other people's photos, videos and such like, without any editorial comments, but said he had selected them because they represented anti-government views close to his own. The face-book evidence showed that he had had about 2000 views. The judge found that the face-book entries did not give rise to a real risk of persecution on return.
3. Mr Thirumaney complains that the assessment of risk did not follow the approach of AB and others (internet activity -state of the evidence) Iran [2015] UKUT 0257 (IAC) paragraphs 469 to 470. He referred me to para 467 which deals with those who have been in the UK for a prolonged period. The appellant had given his passport to the agent and so does not have it. It may lead to added scrutiny. If it does result in interrogation then risks arise with the production of the face-book password. The appellant would be asked for his face book password and the posts would be viewed, and the authorities would take an adverse view which would result in persecutory ill-treatment.
4. Ms Ahmed submitted that AB is not country guidance. The headnote shows that the import of the case is that the state of the evidence as to what happens on return is lamentably lacking because there are so few involuntary returns. In that context the summary to which I was referred provides little by way of guidance to judges.

Discussion

5. I find no merit in the grounds. The judge found that the appellant was an ordinary passport holder who had left Iran lawfully. The appellant had previously come to the UK with permission of the Iranian authorities as a student in January 2009, he had enjoyed short visits to Iran in 2010. He left the UK in December 2011 following a failed asylum claim and appeal, withdrawing a pending appeal to the UT. He was able to go back to Iran on his own passport in 2011, and faced no difficulty. He remained in Iran until December 2012 when he again left lawfully, on his own passport, and travelled to the UK. He is neither an activist or someone who exited illegally. The appellant was unsuccessful before the judge in establishing that his internet activity would have come to the attention of the Iranian authorities. The challenge posed in the submission to me is that following AB the judge should have given greater consideration to the question of whether on return it would become known via the airport screening

processes, from his own disclosure of his face book activity and, if revealed whether it would give rise to risk.

6. In AB and Others (internet activity – state of evidence) Iran [2015] UKUT 257 (IAC) it was held that the material put before the tribunal did not disclose a sufficient evidential basis for giving country or other guidance upon what, reliably, can be expected in terms of the reception in Iran for those returning otherwise than with a “regular” passport in relation to whom interest may be excited from the authorities into internet activity, as might be revealed by an examination of blogging activity or a Facebook account. The determination is reported so that the evidence considered by the Upper Tribunal is in the public domain.
7. Mr Thirumaney submitted that the appellant had established that he does not have his passport by his evidence that he handed it to his agent, and so the judge should have assessed him, with reference to AB, as a person who would be returning without a passport, i.e. on a special travel document which would subject him to enhanced scrutiny, giving rise to the risk that he might have to give his face-book details, and that the authorities might impute an oppositional political opinion to him because of the links and posts of others that he had re-posted.
8. The submission is not sustainable. On the findings of the judge (see para [42]) the appellant did not leave Iran with the assistance of an agent, and so plainly did not establish that he had handed his passport to an agent. To the contrary the judge found that he left on his own passport and left lawfully, and there is no evidence or reason to suppose that he would not be able to return on his own passport.
9. Further the appellant is not helped by Mr Thirumaney’ s reliance on the reference in AB to the position of someone who has been out of the country for a long time as it does no more than canvass the possibility of risk in the context of a lack of information/evidence one way or the other. The appellant did not bring forward evidence. The appellant has not established that he would receive any enhanced scrutiny or be detained for a second stage interrogation, so as to make the judge’s conclusions unsustainable.
10. AB is not a country guidance case and any findings made by the Upper Tribunal were necessarily made on the basis of the evidence before it. In the context of political dissent (including through sur-place blogging), the Upper Tribunal in SSH (which is a country guidance case) effectively reached the opposite view on the evidence before it at [30]:

“We can understand the sensitivity that the Iranian authorities may have towards perceived slights against their own state in the form of untruthful allegations about the conduct of the state, but equally one can expect a degree of reality on their part in relation to people who, in the interests of advancing their economic circumstances, would make up a story in order to secure economic betterment in a wealthier country.”

11. AB is not authority to submit that all an appellant need show is internet activity, here limited to re-positing other's posts and providing links to other's pages broadly oppositional in nature, and that risk cannot be excluded were that to become known by the appellant providing his face book details. Nor is the case authority for showing that someone who has been in the UK from 2012 to 2018, having exited lawfully on his Iranian passport, and able to return on his Iranian passport, and having made another failed asylum claim and lost his appeal, much as previously, would be at any real risk. Whilst the standard is low, the onus is on the applicant to establish his claim.
12. The decision reveals no error of law.

Decision

13. The decision of the First-tier Tribunal dismissing the appeal reveals no error of law and stands.

Signed
Deputy Upper Tribunal Judge Davidge

Date 16 February 2018