



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/01417/2014**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 22 July 2014**

**Determination Sent
On 28 July 2014**

Before

Deputy Upper Tribunal Judge MANUELL

Between

**MRS NAZILA MODIRI
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Nelson-Iye, Authorised Representative
(Duncan Lewis & Co)

For the Respondent: Mr T Wilding, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by Upper Tribunal Judge Renton (sitting as a judge of the First-tier Tribunal) on 20 May 2014 against the decision

of First-tier Tribunal Judge Shepherd made in a determination promulgated on or about 29 April 2014 dismissing the Appellant's asylum, humanitarian protection and human rights appeals.

2. The Appellant is a national of Iran, born on 14 December 1972. She had appealed against her removal from the United Kingdom, a decision taken by the Respondent on 17 February 2014. The Appellant had entered the United Kingdom as a Tier 4 Student on 2 March 2010. She was joined by her husband as her dependant. The Appellant returned to Iran on 10 December 2011, and came back to the United Kingdom on 19 January 2012. She finished her course in March 2012. The Appellant claimed asylum on 17 August 2012. She claimed that she feared for her life because she was a dance teacher who had continued to teach despite a government ban.
3. When granting permission to appeal, Upper Tribunal Judge Renton considered that it was arguable that Judge Shepherd had erred by failing to consider the corroborative evidence given by two of the Appellant's witnesses.

Submissions

4. Mr Nelson-Iye for the Appellant relied on the grounds of onwards appeal earlier submitted. He submitted that the judge had been mistaken to commence her analysis of the evidence with the Appellant's failure to claim asylum at "her earliest convenience. The judge had misapplied section 8 of the Immigration (Treatment of Claimants) Act 2004 and had not followed SM (Section 8: Judges process) Iran [2005] UKAIT 00116. The judge had compounded that error by failing to deal with the evidence of three out of the four witnesses called. The judge did not explain what weight if any she gave to such evidence. The judge had not dealt with the second DVD. The judge had made perverse or irrational findings, basing conclusions on the fact that the Appellant had siblings in the United Kingdom. The decision should be set aside. The appeal should be reheard *de novo*.
5. Mr Wilding for the Respondent submitted that the determination disclosed no error of law. The judge had to start her analysis at some point and it was not wrong to start with the delay which was substantial. It was

plain that the judge had covered all of the evidence in the round. SM was of no relevance. The second DVD contained nothing new. There was no failure in the risk assessment as the appeal had been determined on credibility. None of the witnesses apart from the Appellant had claimed to have been present at any material event.

6. In reply Mr Nelson-lye reiterated that the judge had not considered the video evidence properly, the Appellant's fears and the risk on return to Iran. The determination should be set aside.
7. The tribunal indicated at the conclusion of submissions that it found no error of law and reserved its determination, which now follows.

The no material error of law finding

8. The tribunal accepts Mr Wilding's submissions. Indeed, the tribunal considers that the grounds of onwards appeal as submitted and urged in argument were no more than a disagreement with the judge's findings of fact. The grounds failed to show an arguable error of law and the grant of permission to appeal must be considered generous.
9. The background and country evidence concerning Iran were not in dispute. The judge plainly had them in mind and that was the context in which the appeal was considered. The Appellant's credibility was central to that assessment.
10. The Appellant had advanced an involved claim with a large volume of evidence. A whole day was set aside for the hearing. The experienced judge prepared a comprehensive and structured determination which necessarily ran to over 50 paragraphs. The determination was not simply a recitation of the evidence (which was itemised) but was rather a comprehensive reflection on the issues raised in the appeal. The judge did not treat the Appellant's long delay in claiming asylum as a reason in itself for disbelieving the Appellant but rather as one of many indicators of the likelihood of the Appellant's claims: see [40(a)].

11. The judge applied her self direction as to the burden and lower standard of proof. There is no basis for suggesting otherwise. Her approach was measured and restrained. She factored in the witness evidence as part of her “in the round” assessment and it is untrue to suggest otherwise. The judge identified the witnesses by name at [9], summarised their evidence at [27] and gave detailed and sustainable reasons for her adverse credibility findings which included ample discussion of the witness evidence at [40]. The DVD evidence was also sufficiently treated: see, for example, [25], [27(d)] and [31]. It is trite law that a judge does not have to treat each item of evidence on an individual basis. There is no irrationality or perversity in the determination, but rather a careful and logical analysis which justified the judge’s conclusion that the Appellant’s claim was a fabrication. There is no error of law and no basis for interfering with the judge’s decision to dismiss the Appellant’s appeal, which must stand.

DECISION

The tribunal finds that there is no material error of law in the original decision, which stands undisturbed

Signed

Dated

Deputy Upper Tribunal Judge Manuell