



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/02427/2014

THE IMMIGRATION ACTS

Heard at Field House  
On 29 September 2015

Decision & Reasons Promulgated  
On 30 September 2015

Before

Deputy Upper Tribunal Judge MANUELL

Between

MR S E  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Reynolds, Counsel  
(instructed by BHT Immigration Legal Services)  
For the Respondent: Mr N Bramble, Home Office Presenting Officer

DETERMINATION AND REASONS

*Introduction*

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Landes on 29 July 2015 against the decision of First-tier Tribunal Judge C Ferguson made in a decision and

reasons promulgated on 16 June 2015 dismissing the Appellant's asylum appeal, following its remittal to the First-tier Tribunal for the second time. The earlier decision of the Upper Tribunal promulgated on 15 January 2015 to allow the Appellant's Article 8 ECHR appeal was unaffected.

2. The Appellant is a national of Iran, born on 25 January 1989. He had claimed asylum in February 2005, aged 16, on the basis of his Kurdish ethnicity and KDPI involvement, albeit inadvertent. The history of the claim and its unfortunately protracted litigation is set out at [2] to [6] of Judge C Ferguson's decision and reasons and so need not be recited here.
3. When granting permission to appeal, Judge Landes considered that it was arguable that Judge C Ferguson had erred in failing to consider the additional and cumulative risk factors set out in the Appellant's expert's report when reaching her finding that the Appellant was not at real risk on return after a 10 year absence.
4. The Respondent filed notice under rule 24 indicating that the appeal was opposed. Standard directions were made by the tribunal and the appeal was listed for adjudication of whether or not there was a material error of law.

#### *Submissions*

5. Mr Reynolds for the Appellant relied on the grounds of onwards appeal earlier submitted, together with the grant of permission to appeal. Counsel submitted that the judge had indeed erred by failing to take into account the risk factors identified in the expert's report of Ms Sheri J Laizer dated 10 August 2014 and addendum, specifically in the conclusions the expert had there expressed. This was important because the judge had accepted large elements of the Appellant's evidence as credible, including visits to the family home by the authorities enquiring into possible KDPI activity. Mr Reynolds developed those submissions in dialogue with the tribunal and in some detail by direct reference to the report. He submitted that the report showed that there was still a present risk to the Appellant, exacerbated by his long period in the United Kingdom, now some 10 years. The decision and reasons should be set aside and the appeal reheard by another judge in the First-tier Tribunal.
6. Mr Bramble for the Respondent relied on the Respondent's rule 24 notice. He submitted that the decision and reasons disclosed

no error of law. The Appellant's complaints at most were just a disagreement with the judge. The judge had distilled the essence of the expert's report and did not have to go into every detail. The grounds were extravagant. The decision and reasons should stand.

7. In reply, Mr Reynolds submitted that while it was true that the judge did not have to go into every detail, the problem was that insufficient reasoning had been given. The Appellant could not say why he had lost his appeal despite being found at least substantially credible.

*No material error of law*

8. The tribunal accepts Mr Bramble's submissions. In the tribunal's view, the grant of permission to appeal was a generous response to a reasons challenge. It was, of course, a matter for the Appellant and those advising him, but at a time of great strain on public finances it may reasonably be wondered what value to anyone was served by yet further litigation in the face of the Appellant's success over his Article 8 ECHR private life claim. The Appellant was not in fact facing removal anywhere.
9. As always, the judge's decision and reasons needed to be read as a whole, which the Appellant's grounds of appeal and subsequent submissions failed to do. The judge examined the case put forward by the Appellant in the round, with evident anxious scrutiny. Her finding, contrary to the Respondent's case, that the Appellant was a credible witness was subject to some important qualifications: see [36] and [37] of the decision. These included the reasoned rejection of the Appellant's evidence that the authorities were still in effect looking for him. This was where, very obviously, the judge and the expert parted company, because the expert's opinion was based on the declared assumption that the Appellant's claims were accurate: see, e.g., section 7 iii of the report, "if he was implicated as he believes". In many ways little more need be said. Most, if not all, of Mr Reynolds's submissions were an attempt to reargue the asylum appeal.
10. The judge summarised the expert's report and addendum at [26] to [29] of her decision. There was no complaint on the Appellant's behalf that her summary was incomplete. The judge's analysis of the report at [39] was securely reasoned, and at [40] the judge applied BA (Demonstrations in Britain - risk on return) Iran CG [2011] UKUT 36 (IAC), which the judge had

carefully noted earlier at [11]. That took account took account of the Appellant's long absence from Iran of which the judge was plainly aware: see, e.g., [41].

11. In the tribunal's judgment, the risk assessment which the judge reached in the light of her findings was open to her and is sustainable. The decision was a thoughtful and comprehensive reflection on the various issues raised in the appeal. There was no material error of law. There is no basis for interfering with the judge's decision to dismiss the Appellant's asylum appeal, which dismissal must stand.

### **DECISION**

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

**Signed**

**Dated**

**Deputy Upper Tribunal Judge Manuell**