



IAC-CH- CK-V1

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

Appeal Number: AA/08395/2014

THE IMMIGRATION ACTS

**Heard at Columbus House,
Newport
On 15th July 2015**

**Decision and Reasons
Promulgated
On 24th July 2015**

Before

UPPER TRIBUNAL JUDGE POOLE

Between

**KI
(ANONYMITY DIRECTION MAINTAINED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Nick Webb, NLS Solicitors

For the Respondent: Mr Irwin Richards, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a male citizen of Iran, born 1 January 1995. He claimed asylum in the United Kingdom on 19 September 2013 and his application was refused in October 2014. He appealed that decision. His appeal came before Judge of the First-Tier Tribunal Thomas sitting at Birmingham on 1 December 2014. An oral hearing was held and both parties were represented. In a determination dated 19 December 2014, Judge Thomas dismissed the appellant's appeal on all grounds finding

(paragraph 16) that the appellants account of events leading to his departure was not credible.

2. The appellant sought leave to appeal. The grounds allege that the judge's findings on credibility were not "full and cogent". It is further alleged that the judge did not adequately consider all country information that was before her and generally had failed to provide adequate reasoning. Finally it was alleged that the judge had not used the correct standard of proof.

3. The application came before another judge of the First-Tier Tribunal who, on 26 January 2014, refused the application giving the following as his reasons:

"1. The appellant seeks permission to appeal, in time, against a decision of First-Tier Tribunal Judge Thomas, promulgated on the 29th December 2014, to dismiss his appeal against the respondent's refusal of asylum and decision to remove him from the United Kingdom.

2. The appellant's case appears to be that he is a citizen of Iran albeit, remarkably, he asserts in his Notice of Appeal that he is a citizen of Iraq. Be that as it may, and in any event, the grounds upon which this application for permission to appeal is sought amount to nothing more than a series of disagreements with conclusions that were properly open to the Tribunal on the evidence and for which it provided detailed and cogent reasons. Moreover, some of the grounds appear to misrepresent and distort the tenor of the Tribunal's reasoning. By way of example, it is stated at paragraph 3 of the application that - based upon the Tribunal's reasoning in paragraph 17 of the decision - "no one would ever support the KDP because of the risks involved". However, it is clear that what the Tribunal in fact found incredible was the needless exposure by the appellant's father of his wife and family to an avoidable risk of harm from the authorities. Contrary to the assertion made at paragraph 4 of the application, that line of reasoning was entirely compatible with background country information concerning the activities of the KDP in Iran. Furthermore, the final sentence of paragraph 8 of the application confuse discrete concepts of the burden of proof on the one hand and the standard of proof on the other, and thus arrives at a proposition that is devoid of meaning. The application therefore fails to identify any error of law, whether material to the outcome of the appeal or otherwise, and permission to appeal to the Upper Tribunal is accordingly refused".

4. The appellant then sought leave from the Upper Tribunal. That was granted on 11 May 2015. The Upper Tribunal Judge believed that "it is properly arguable that (the judge's findings) *may* not be adequately reasoned". Leave to appeal on the allegation that the correct standard of proof had not been applied was without merit and permission on that ground was refused.

5. Hence the matter came before me in the Upper Tribunal.

6. In his submission Mr Webb referred to paragraphs 17 to 20 in the determination of Judge Thomas. For the reasons set out in the grounds

seeking leave he considered the reasoning to be inadequate. At paragraph 17 he said the findings were contrary to objective evidence. The claim was specific to the appellant and to the appellant's father, and not enough reasons were put forward by the judge. This also applied to paragraph 18. At paragraph 19 no reason had been given and again at paragraph 20 the findings were contrary to the evidence with regard to the appellant's uncle. Mr Webb submitted that this amounted to a material error of law and the decision should be set aside, and the case remitted.

7. Mr Richards in his submission said that the findings were entirely sustainable. The comments with regard to paragraph 17 did not do justice to what had been found by the judge. Simply the appellant was not at risk. The judge's findings were perfectly sustainable. The judge had found the evidence not to be plausible. This was fine as long as reasons are given. The judge had given reasons. The grounds were merely disagreements with the finding that had been perfectly open to the judge. No material error of law existed.
8. Mr Webb chose to make no response other than to repeat that no sufficient reasons had been given and the determination was inadequate.
9. At the conclusion of the hearing I announced for the reasons I now give I found no material error of law and the appellant's appeal was accordingly dismissed.
10. The parties have had the benefit of the views of First-Tier Tribunal Judge Kelly when he refused the original application for leave. I endorse those views. In addition I note that at paragraph 3 of Judge Thomas's determination he indicates that he has considered the bundles submitted and the case of **IA (Afghanistan) v SSHD [2014] EWCA 450**. There is nothing to indicate that the judge failed to consider that information.
11. The main thrust of the challenge to the determination is that having made an adverse credibility finding the judge failed to adequately explain how he arrived at that conclusion. Paragraphs 17 to 20 give an explanation. The judge is refreshingly concise as to his findings and the reasoning behind those findings. In each case a reading of the explanation leaves nobody in any doubt as to why the judge reached the conclusions that he did.
12. Paragraph 17 finds it incredible that the appellant's father would have KDP members at his home and explains the reason because of the exposure of wife and family to danger.
13. Similarly paragraph 18 gives a more than adequate explanation as to the appellants awareness (or otherwise) of his parents alleged support for the KDP.

14. Similarly paragraph 19 makes a finding and gives an adequate explanation. A reader would be in no doubt as to why that part of the claim was rejected. The same applies to paragraph 20.
15. Mr Webb suggests that paragraph 17 findings are contrary to objective evidence. I assume he means objective information. However the appellant's claim must be considered primarily **upon the discrete facts of his case** and how the judge assesses that evidence. As indicated above the judge indicates at paragraph 3 a consideration of the objective information as contained in the bundles and the judge was entitled to reach the conclusions that he did.
16. I accept the submissions of Mr Richards that the grounds are merely indications of disagreement with the findings of the judge. All findings were adequately reasoned and perfectly open to the judge.
17. The allegation regarding incorrect standard of proof was not the subject of the appeal before me.
18. No application was made with regard to the anonymity direction already made and accordingly that is to continue.

Decision

19. There is no material error of law. The appellant's appeal is dismissed and the decision of the First-Tier Tribunal Judge must stand.

Signed

Date

Upper Tribunal Judge Poole