



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/01566/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 4 December 2017

Promulgated

On 19 December 2017

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

M A

(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hodson, counsel employed by Elder Rahimi Solicitors

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. Breach of this order can be punished as a contempt of court. I make this order because this is a protection case and there is invariably a risk in cases of this kind that publicity will itself create a danger to the appellant.
2. This is an appeal by a citizen of Iran, who is a young person born in the year 2000, against the decision of the Secretary of State refusing to recognise him as a refugee.

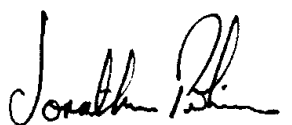
3. This is a case where credibility probably goes to the very heart of the case and the First-tier Tribunal Judge has disbelieved the witness. Many reasons are given for disbelieving the witness. Some of them are better than others.
4. My concern is that there are two clear errors made by the First-tier Tribunal Judge.
5. At paragraph 33 of his decision the Judge refers to a Mr Zawie, who, the respondent noted, could not be identified as a person involved with the KDP-I in Erbil. The judge said:

“I find it noteworthy that despite the appellant being in contact with the KDP-I that no-one has addressed this issue to verify that such a person exists or is associated with the organisation which I find to be damaging to the appellant’s credibility.”
6. The difficulty with this criticism is that the point was addressed. It was addressed in the bundle provided by the appellant, who has given at least three examples of a person purporting to be Mr Zawie being involved prominently with the KDP-I precisely as the appellant has alleged. This documentary evidence is of a kind which might be credible and the judge has taken a point that is just not sustainable. It is necessary to look carefully at that supporting evidence and either give a proper reason for disregarding it or to deal with the case on the basis that Mr Zawie is indeed involved with the KDP-I as alleged.
7. The other mistake is at paragraph 30 where the judge says:

“The appellant indicated that the party headquarters was in Koya whereas Mr Seyedi indicated that the party did not have any official presence in Iran itself. I find this to be a discrepancy in the evidence before me.”
8. I agree with Mr Hodson that this only makes sense if the judge thought that Koya was in Iran but Koya is not in Iran. Koya is near to Erbil in Iraq.
9. It follows that the judge has given two reasons for disbelieving the appellant that just do not stand up. Credibility findings have to be made on an evaluation of the evidence as a whole. In my judgements the consequence of these errors is that the adverse credibility finding is damaged. Mr Hodson fairly and wisely did not suggest that this was a case that had to succeed. It is a case that needs a thorough, lawful analysis of the evidence and sound findings on credibility. Regrettably that is not what has not happened in this case.
10. It follows therefore that I set aside the decision of the First-tier Tribunal and I direct that the case be heard again in the First-tier Tribunal.

Notice of Decision

The appeal is allowed. I set aside the decision of the First-tier Tribunal and I direct that the appeal be heard again in the First-tier Tribunal.



Signed
Jonathan Perkins, Upper Tribunal Judge

Dated: 18 December 2017