



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/08926/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 25th May 2017

**Decision & Reasons
Promulgated
On 6th June 2017**

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

ND

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Gayle of Counsel

For the Respondent: Mr P Armstrong, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appeals against the decision of First-tier Tribunal Judge Khan promulgated on 5 January 2017, in which her appeal against the decision dated 11 August 2016 to refuse her asylum and human rights claim, was dismissed.
2. The Appellant is a national of Iran born on 22 May 1997. She entered the United Kingdom on 28 June 2015 with valid entry clearance as a student until 27 September 2015. The Appellant sought to make a claim for asylum on 26 January 2016 and underwent an asylum screening interview on 15 February 2016. She was substantively interviewed on 5 August 2016 and the application refused by the Respondent on 11 August 2016. The Appellant's claim was based on fear of persecution on return to Iran due to her conversion to Christianity in United Kingdom, pursuant to which she has been preaching both in person and online. The Appellant claims that her family home in Iran has been searched, her father detained and

interrogated for two days and general harassment of her family by the authorities has been continuing.

3. The Respondent refused the application on the basis that it was not accepted that the Appellant had converted to Christianity. Her account was not considered to be credible or consistent and to the contrary was found to be vague, evasive and lacking in detail. There was also a failure to substantiate parts of her claim with evidence that should have been readily available to her.
4. Judge Khan dismissed the appeal on 5 January 2017 on all grounds. In particular, he made adverse credibility findings against the Appellant, considering that her evidence was vague and evasive, her account implausible and the only witness who attended in support of the appeal gave evidence which was contradictory and inconsistent.

The appeal

5. The Appellant appeals on four grounds. First, that Judge Khan failed to give sufficient reasons for the adverse credibility findings he made, particularly given that there was background evidence consistent with the Appellant's claim about monitoring of her place activity by the Iranian authorities. Secondly, that the number of typographical and grammatical errors within the decision shows that there was a failure to exercise the most careful and anxious scrutiny in consideration of the appeal. Thirdly, the decision does not specifically refer to supporting documentary evidence about the Appellant's claim as to her application for a visa extension, nor does it make any reference to supporting statements from the man she met on the bus, those whom she had evangelised or from her father, all of which support the substance and plausibility of her claim. Finally, the witness evidence was rejected on the basis of one minor error in dates which was not sufficient to disregard the entirety of her evidence.
6. Permission to appeal was granted by Judge Parkes on 19 April 2017 on all grounds, but with the observation that the ground in relation to typographical errors was particularly weak.
7. Counsel for the Appellant relied on the grounds of appeal and highlighted the evidence in support of the Appellant, as well as the background evidence which showed activities and monitoring by the Iranian authorities, which was all before the First-tier Tribunal. It was submitted that Judge Khan failed to take this into account and in any event failed to give reasons for rejecting it or finding that in any event the claim was implausible. It was further submitted that in light of the background evidence, it was likely that the Iranian authorities would monitor an Iranian Church in the United Kingdom and therefore plausible that they would know of conversions to Christianity in such a setting.
8. On behalf of the Respondent, the Home Office Presenting Officer submitted that the grounds of appeal amounted to no more than disagreement with the outcome and did not contain any errors of law. The decision was detailed and thorough with cogent and well-reasoned

findings which were open to the First-tier Tribunal on the basis of evidence before it.

Findings and reasons

9. In paragraphs 8 to 11 of the decision, Judge Khan sets out in summary form the oral and documentary evidence before him and said that he has considered all documents submitted by both parties in coming to his decision on the appeal. The oral evidence is summarised in paragraphs 21 to 25 and the credibility findings set out in paragraphs 28 to 36. Although it is not necessary for a decision to specifically refer to each and every piece of evidence before the First-tier Tribunal in an appeal, the findings in this decision make no reference whatsoever to any of the supporting documentary evidence, which included written statements, a bank transfer receipt, Facebook screenshots and background material. Having considered those documents, it is self-evident that there may have been good reasons why they were not considered to be supportive of the Appellant's credibility or claim, in particular the written statements lack detail in substance and in most cases lack the full identity and contact details for the author. The lack of detail does not assist the plausibility of the Appellant's claim, nor does it in any event address all of the problems of credibility found by Judge Khan, such as the vagueness of the Appellant's evidence, the lack of detail about her claimed application for leave to remain as a student and lack of explanation about harassment of her family in Iran.
10. However, it is not possible to conclude that in any event the errors are immaterial such that the outcome of the appeal would have inevitably been the same even if the documents had definitely been considered and reasons for their rejection had been given. On balance, I find that the cumulative failure to refer to any of this material in dismissing the appeal primarily on credibility grounds and the failure to give reasons for its rejection is a material error of law.
11. Further, although the evidence of N R was brief and not supported by any written statement, insufficient reasons are given as to why all of her evidence was rejected due to one discrepancy in dates, given that there was additional written material which was consistent with the oral evidence given as to the Appellant's attendance and involvement in the church. Judge Khan simply recounts the evidence as to the dates and states his finding that the evidence (as a whole) was not considered credible or consistent.
12. I deal finally with the point as to typographical and grammatical errors in the decision. Although it is clear the decision could have been better proof-read, the relatively minor errors it contains are clearly not material and individually were accepted not be material by Counsel for the Appellant. The errors are not such as to indicate that Judge Khan failed to exercise careful and anxious scrutiny in determining the appeal. I do not find any material error of law in this regard, however, for the reasons set

out above, the decision of the First-tier Tribunal in relation to the appeal on protection grounds must be set aside in any event.

Notice of Decision

The making of the decision of the First-tier Tribunal did involve the making of a material error of law in the appeal on protection grounds. As such it is necessary to set aside the decision in respect of the protection claim only. The decision on the human rights appeal under Article 8 of the European Convention on Human Rights was not challenged and that part of the decision stands.

I set aside the part of decision of the First-tier Tribunal on protection grounds.

Directions to the parties

1. This appeal is remitted to the First-tier Tribunal for rehearing of the appeal on protection grounds. The findings in relation to the human rights appeal under Article 8 of the European Convention on Human Rights were not challenged and are maintained.
2. Any further evidence relied upon shall be filed with the First-tier Tribunal and served upon the other party no later than 14 days prior to the hearing of the remitted appeals.
3. The Appellant is to file with the First-tier Tribunal and serve upon the Respondent no later than 14 days prior to the hearing of the remitted appeal a skeleton argument setting out relevant issues, with reference to evidence and case-law.
4. The First-tier Tribunal may issue further directions as required.

Directions to administration

1. The appeal is remitted and shall be heard at the Hatton Cross hearing centre on a date to be fixed by that centre.
2. The remitted appeal is to be listed before any Judge except Judge Khan.
3. There is a time estimate of 2 hours for the hearing.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed



Upper Tribunal Judge Jackson
5th June 2017

Date