



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case Nos: UI-2021-001939
First-Tier: PA/50933/2020
IA/00614/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 24 May 2023

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

PFS
(anonymity direction made)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: -

For the Respondent: Ms Young, Senior Home Office Presenting Officer

Heard at Phoenix House (Bradford) on 24 May 2023

Anonymity:

“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 his family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

DECISION AND REASONS

1. The Appellant is a national of Iran born in 1987. He appeals with permission against the decision of the First-tier Tribunal (Judge Bircher) to dismiss his appeal on protection and human rights grounds.
2. The Appellant claimed asylum on arrival at Gatwick on the 4th April 2019. He was interviewed that day and he explained to the immigration officer the basis of his claim:

“My father is a war veteran and I had to live with my family because of financial situation. My father had secretive business with the authorities that I was not clear about but he always carried a gun with him. One evening my mum said don't come home and my sister confirmed that my father had taken my computer and case. I was frightened because I was hiding banned material inside the case. I think my father will kill me if I return and that he has reported me to the authorities. I think my father has Influence with the authorities. Also do not follow any religion and have hidden this whilst living in Iran”

3. When subsequently interviewed in more detail, the Appellant explained that the banned material that had been hidden inside his computer case was a copy of the Satanic Verses which he had borrowed from a friend. He now fears that his father has reported him to the authorities.
4. The Respondent's decision letter is dated the 24th July 2020. Much of the background to the Appellant's claim is accepted as true. In particular his account of drifting away from Islam, and that he managed to conceal his lack of faith from his father, is described as specific, detailed, plausible and consistent. The rest of the account, in particular the claim that the Appellant borrowed a copy of the Satanic Verses, took it home and hid it, where it was then discovered by his father, is rejected as having “multiple credibility issues”. Protection was therefore refused.
5. The Appellant appealed to the First-tier Tribunal where the matter came before Judge Bircher. Judge Bircher did not accept any of the account proven to the lower standard then applicable, and the appeal was dismissed. The Appellant now appeals on the following ground: that the Tribunal impermissibly went behind a concession of fact, and having done so began its credibility findings from the wrong place, namely doubt about matters which had already been accepted, including the Appellant's professed lack of faith. Ms Young, for the Secretary of State, accepts that this error is made out, and invites me to remit the appeal to the First-tier Tribunal so that fact finding can be undertaken from the correct starting point, namely the Secretary of State's acceptance of some of the account. This consent by the Secretary of State was communicated to the Appellant's representatives the day before the hearing and this was why they did not attend.
6. The matter is therefore settled by consent, the decision of Judge Bircher set aside, and the matter is remitted to be heard by a differently constituted Tribunal.

Notice of Decision

7. The appeal is allowed.
8. The decision in the appeal will be remade following a de novo hearing in the First-tier Tribunal by a judge other than Judge Bircher.
9. There is an order for anonymity.

Upper Tribunal Judge Bruce
24th May 2023