



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2023-000793**  
**First-tier Tribunal Nos:**  
**PA/50391/2022**  
**IA/01247/2022**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 19 October 2023**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**Mr Y H**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**The Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr M Mohzam (Solicitor)

For the Respondent: Ms R Arif (Senior Home Office Presenting Officer)

**Heard at Field House on 4 September 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. This is an appeal against the determination of First-tier Tribunal Judge Row, promulgated on 4<sup>th</sup> February 2023, following a hearing at Nottingham on 3<sup>rd</sup> February 2023. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted,

permission to appeal to the Upper Tribunal, and thus the matter comes before me.

### **The Appellant**

2. The Appellant is a male, a citizen of Iran, who was born on 1<sup>st</sup> April 2000. He appealed against the refusal of asylum by the Respondent dated 27<sup>th</sup> January 2022.

### **The Appellant's Claim**

3. The Appellant's claim is that he is at risk from the family of a woman with whom he had an affair in Iran. He was also at risk from the government of Iran because a warrant had been issued for his arrest. He was at risk because he had murdered as a result of the affair and he was at risk from the Iranian authorities because he would now be prosecuted.

### **The Judge's Findings**

4. The judge recounted how the Appellant claimed to have had an affair with a married woman called S, which went on until her husband discovered the affair, whereupon the Appellant was attacked and he fled. S was then killed by her husband. The Appellant fled to his uncle's house in Iran where he learnt that the police had been to arrest him with a warrant because he had been accused of the rape and murder of S. As a result, the Appellant's uncle arranged for him to leave Iran, which he did by traveling through Iraq, Turkey, Greece, Italy and then France. The Appellant finally arrived in the UK on 22<sup>nd</sup> August 2019.
5. The judge went on to record that the Appellant had "made a genuine effort to substantiate his asylum claim" (paragraph 16), and that "the Appellant's account does not run counter to general information relevant to his case" (paragraph 17). However, he had failed to deal with "all material factors at his disposal" (paragraph 18) and also, "has not been able to produce documentary evidence of the warrant for his arrest or of the death of S" (paragraph 19). The judge observed that whereas the lack of documentary evidence of the warrant was understandable as that would be in the possession of the police, "The lack of documentary evidence of the death is understandable" (paragraph 20). This is because, "The rape and murder of a woman, and the flight of the man said to be her attacker, would be significant news anywhere", so that "It would be expected that it would be reported in the newspapers locally". In any event, "Other evidence of her death might have been sought such as a death certificate", so that at the very least, it would have been reasonable to try to obtain it", but that "This has not been done" (paragraph 20). The judge then went on to deal with a number of matters raised by the Respondent and concluded that, "these matters do not damage the Appellant's credibility" (paragraph 25).
6. However, the judge did also conclude that there were other matters which did damage the Appellant's credibility. For example, in his screening interview, the Appellant said that "he was attacked by the girl's family" (paragraph 26) where the judge referred to question 4.1. By contrast, in the asylum interview, the Appellant stated that he "was not attacked by the girl's family", but that, "He was attacked only by F" (see paragraph 27 referring to questions 114 to 126) and the judge regarded this as a significant discrepancy. The appeal was dismissed.

### **Grounds of Application**

7. The grounds of application state that, whilst the judge had stated that the Appellant had made a genuine effort to substantiate his claim (at paragraph 16) and had even accepted (at paragraph 24) that the Appellant's account of his relationship was not vague, he was wrong to have then said (at paragraph 19) that the failure to produce any evidence of the death of S indicated that the claim had ultimately been fabricated. This is because there was no objective evidence that any newspaper would carry such a story, or that there were any local newspapers in the Appellant's hometown, or that a story such as this would make it into the newspapers.
8. On 10<sup>th</sup> May 2023, the Upper Tribunal granted permission on the grounds that it was arguable that the judge's findings concerning the potential availability of newspaper, media or other reports of the death of S were based on the judge's own subjective views. However, it was also added that if the Appellant wished to pursue this aspect of the ground, he must file and serve a witness statement from a suitability participant in the hearing before the judge, setting out what happened at the hearing, so as to make it clear whether this point was put to the Appellant at the hearing, given that it had not been raised in the refusal letter of 27<sup>th</sup> January 2022.
9. At the hearing before me on 4<sup>th</sup> September 2023, Mr Mohzam, appearing on behalf of the Appellant, relied upon the grant of permission with respect to paragraph 20 of the judge's decision where the judge had criticised the lack of any objective evidence confirming the death of S. Mr Mohzam submitted that this was a "subjective view" by the judge not based upon any objective evidence as to the possibility of such a report being put in the local newspapers, assuming that there were any. What the judge had done was to have approached the matter from the viewpoint of a person living in the UK rather than as to what was likely to happen in a country like Iran.
10. For her part, Ms Arif submitted that there was no error. The grounds state that there was a "subjective" element in the decision making by the judge, but the fact was the judge had made an overall assessment of the situation and concluded that the claim was unsustainable. Mr Mohzam replied to say that there should be a finding of an error of law with remittals so that all positive findings are preserved, with the exception of paragraph 20.

### **No Error of Law**

11. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law. My reasons are as follows. This is a decision where the judge does not base his refusal simply on the absence of objective evidence of the death of S. What he also states is that, "It might not have been possible to obtain this evidence", such as a death certificate, but that "It would have been reasonable to try to obtain it" and that this was not done (at paragraph 20).
12. The judge was entitled to express himself in this manner. However, there is a second reason for why the judge refuses the appeal. He deals with this quite separately. The principal one here is the discrepancy between the screening

interview and the asylum interview as to whether the Appellant was attacked by the girl's family (maintained in the screening interview at question 4.1) or whether he was not attacked by the girl's family, but only by F (as maintained in questions 114 to 126). The judge recognises that there is a low standard of proof to be applied in an asylum appeal (paragraph 33) but ultimately concludes that, "The failure to attempt to obtain confirmation of S's death, the discrepancies between the screening interview and the asylum interview" together with the manner in which the Appellant had disposed of his passport had all damaged his credibility (paragraph 33).

13. The judge therefore concludes that the Appellant was not involved in an affair with S and that, "this is a fabrication to support an asylum claim" and that, "I do not find that there is a warrant for his arrest or that he has come to the adverse attention of the Iranian authorities", so that he is not at risk on Iran (at paragraph 34). In the circumstances, the judge was entitled to come to this decision.

**No Error of Law**

14. I am satisfied that the making of the decision by the judge did not involve the making of an error of law.

**Notice of Decision**

15. There is no material error of law in the judge's decision. The determination shall stand.

**Satvinder S Juss**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**18<sup>th</sup> October 2023**