



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07124/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 24 July 2017

Decision & Reasons Promulgated
On 31 July 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

[A K]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms N Loughran, of Loughran & Co, Solicitors
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a decision by First-tier Tribunal Judge Kempton, promulgated on 21 April 2017, dismissing his appeal against refusal of recognition as a refugee from Iran.
2. The first ground of appeal is that the Judge erred by failing to make a finding on the appellant's nationality. Permission was granted on the view that this is arguable.
3. The Judge was not bound in principle to make a finding on nationality. What she had to decide was whether the appellant established his case, which might or might not involve a conclusion about his nationality. However, in course of submissions it was accepted that the Judge at ¶36 *did* find the appellant to be to be Iranian, so the first ground was not insisted upon.

4. The second ground refers to the Judge' finding at ¶35 that it would be risky for the appellant's aunt to post a CD of photographs to him in the UK, giving away his address, and not accepting that if she did so, the Iranian authorities might have removed the CD, resulting in his receipt of an empty envelope. This finding is said to be contrary to principles of not judging by the customs of one's own society. Ms Loughran submitted that it was speculative.
5. I found it difficult to decipher this ground. The appellant said that his aunt posted him a CD of family photographs (nothing sinister); the envelope arrived empty; and sought an inference of interference by the authorities. That inference appeared to me rather far-fetched, and the Judge's observation common-sense, in relation to any society or culture. There was no evidence or submission about Iranian customs, culture or temperament which might make the pointless forwarding of an empty envelope any more likely.
6. The third ground is that as a result of the foregoing grounds, the Judge erred by failing to apply country guidance on risk to failed asylum seekers, given not only the appellant's ethnicity and illegal exit from the country, but his perceived political affiliation.
7. As Mr Matthews submitted, if the other grounds were not made out, and the appellant did not establish his claimed political affiliation, ground 3 did not take him anywhere either.
8. The grounds are not shown to amount to more than a generalised disagreement. They crystallise no error by the Judge on any point of law which might entitle the UT to interfere with her decision.
9. The decision of the First-tier Tribunal shall stand.
10. No anonymity direction has been requested or made.



28 July 2017
Upper Tribunal Judge Macleman