



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/06678/2019

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 9 December 2019**

**Decision & Reasons Promulgated
On 19 December 2019**

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**H E
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Sadiq, Adam Solicitors

For the Respondent: Mr A McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a national of Iran of Kurdish ethnicity, has permission to challenge the decision of Judge Hillis of the First-tier Tribunal sent on 16 September 2019 dismissing his protection claim.
2. The basis of the appellant's claim was that he was a border smuggler who would be at risk from the Iranian authorities because via a friend called Mohammed he had become involved in helping the KDP-I in distributing leaflets and they had arrested two men he was working with, resulting in a raid on his home. The respondent rejected his claim as not being credible.

3. The judge too did not accept that the appellant had given a credible account. The judge was also not satisfied that the appellant had demonstrated that he had engaged in sur place activities in the UK.
4. The appellant's grounds contend that the judge's findings (which identified lack of detail and factual content) failed to delineate at all what specific details or factual contents were lacking and are thus wholly inadequate.
5. The grounds also contend that the appellant's actual account as detailed in his asylum interview and his appeal witness statement were matters upon which the judge made no findings. "It was clear that the appellant's own account is that he was motivated by Mohammed and knew full well that Mohammed was a KDP-I member and indeed the appellant himself was fully aware that he was distributing KDP-I leaflets".
6. In granting permission Judge Martin stated that it was arguable that the judge had not considered "the core of the appellant's claims as to what he said took place in Iran and whether that is credible". I heard submissions from both representatives, Mr Sadiq contending that the judge's findings were effectively limited to those set out in paragraph 39 and Mr McVeety submitting that the judge's findings encompassed paragraphs 25 - 39 (and also 40 - 47 on the sur place aspects) and had to be read as a whole.
7. I am not persuaded that the judge materially err in law. I would observe that Mr Sadiq was not assisted by having to elaborate on poorly drafted grounds. The written grounds raise no specific challenge to the judge's findings at paragraphs 25 - 33 (or at 40-47), yet complain in broad terms that there was a lack of findings in paragraph 39. Yet even focussing on Mr Sadiq's more logical reformulation, I do not consider the grounds are made out.
8. I note first of all that the appellant's grounds raise no challenge to the judge's adverse findings in respect of the appellant's claimed sur place activities in the UK. Hence the only basis in which he can succeed before me is by establishing an error of law in the judge's treatment of the appellant's claimed experiences in Iran.
9. Turning to consider the latter, I would accept Mr Sadiq's submission that the judge's findings at paragraphs 25 - 33 lack structure. However, these - and indeed all the succeeding paragraphs - must be read in light of the decision as a whole. In this case the respondent's refusal decision had identified a number of shortcomings in the appellant's account, including inconsistencies and lack of detail. Having heard from the respondent, the judge then sets out both parties' submissions. At paragraphs 10 - 15 the judge notes that the Presenting Officer identified a lack of consistency as regards the appellant's account of having kept his political activities secret and an implausibility in the appellant's account of having exited Iran within 24 hours. The PO also noted that the authenticity of the KDP-I letter was not accepted. The judge then detailed the submissions made on

behalf of the appellant which were in essence that the appellant had satisfactorily explained these alleged shortcomings.

10. Against this backdrop it is clear that in paragraphs 25 - 33 the judge gave specific treatment to the appellant's attempted explanation of the two main difficulties the respondent had identified in his account. At paragraph 29 the judge makes very clear his assessment that the appellant had not been able to explain how it was that his uncle had been able to arrange an agent and for the appellant to leave Iran less than 24 hours after the appellant claims his home was raided by the authorities, nor had he been able to give any details of the arrangements made with the agent or the cost. I note that Mr Sadiq was not able to shed any further light on this aspect of the appellant's evidence.
11. The judge then turned to consider the appellant's explanation for why the appellant and two men whom he said had agreed to distribute leaflets at the behest of his friend Mohammed, would not have kept their true identities secret from each other in case one of them was caught and interrogated by the authorities. The judge obviously had in mind the explanation provided by the appellant in terms of his trusting the assurance of his friend Mohammed that these two men were trustworthy: that explanation had been noted at paragraph 18. Given that the appellant knew it was still obviously dangerous to share identity and family name - he had said in his interview that he knew if anyone was caught, the consequences would be very serious - it was entirely open to the judge to reject the appellant's explanation and regard it as at odds with the great concern he had expressed about keeping his activities secret when speaking with his wife.
12. Accordingly, I agree with Mr McVeety that the judge's adverse credibility finding on the appellant's history in Iran are to be found in paragraphs 25 - 39 and not just in paragraphs 34 - 39. I also consider that the judge's findings in these paragraphs were ones he was reasonably entitled to make on the evidence.
13. Turning to paragraphs 34 - 39, it can be seen they fall into three segments. At paragraph 34 the judge rejects the respondent's argument that the appellant had been inconsistent in failing to disclose or prove that he had been involved with the KDP-I, but makes clear at the end that this was not determinative of whether his account was credible. The second and main segment is comprised of paragraphs 35 - 38 and focuses on the reliability of the letter the appellant produced from KDP-I dated 29 May 2019. The judge gives several reasons why he considered he would place no evidential weight on it. In substance, the letter was seen to damage the appellant's account rather than substantiate it, since implausibly it did not confirm key particulars of the appellant's account, despite the appellant saying that the author had been in direct contact with Mohammed who was fully aware in every respect of the claimed leaflet distribution and the arrest of the two collaborators and the claimed raid on the appellant's home.

14. Thus, read together with paragraphs 34-38, paragraph 39 (the third and final segment of the judge’s findings on the appellant’s past experiences in Iran) is clearly a summary of the judge’s previous adverse findings; and the assessment it contains - that the appellant’s account was “lacking in detail and factual content” - clearly refers back to the three main shortcomings identified in the appellant’s account in paragraphs 29, 31 and 37. These findings were properly reasoned and amounted to a proper assessment as to why the core of the appellant’s claim was found to be lacking in credibility.
15. For the above reasons I conclude that the judge did not materially err in law and hence the decision of the judge must stand.

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:



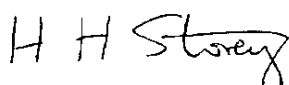
Date: 14 December 2019

Judge of the Upper Tribunal

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date: 16 December 2019



Dr H H Storey
Judge of the Upper Tribunal