Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: HU/13477/2019**

THE IMMIGRATION ACTS

Heard remotely via video (Teams)	**Decision & Reasons Promulgated**
On 28 May 2021	**On 15 June 2021**

Before

UPPER TRIBUNAL JUDGE BLUM

Between

SAYED MOHAMMAD GHOBADI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the appellant: Mr D Lemer, counsel, instructed by Farani Taylor Solicitors
For the respondent: Mr A Tan, Senior Home Office Presenting Officer

This decision follows a remote hearing in respect of which there has been no objection by the parties. The form of remote hearing was by video (V), the platform was Microsoft Teams. A face to face hearing was not held as all issues could be fairly determined via a remote hearing.

DECISION AND REASONS

Background

1. This is an appeal against the decision of Judge of the First-tier Tribunal G J Ferguson ("the judge"), promulgated on 21 May 2020, dismissing the human rights appeal of Mr Sayed Mohammad Ghobadi ("the appellant") against a

decision of the respondent dated 17 July 2019 refusing the appellant's human rights claim.

2. The appellant is a national of Iran who was born on 28 June 1993. He entered the UK in January 2009 as a 15 year old unaccompanied minor. An asylum claim based on the alleged political activities of the appellant's father and the appellant's claim that the Iranian authorities discovered a listening device the appellant planted in Basij offices was rejected and an appeal dismissed on 5 May 2011. Judge of the First-tier Tribunal Braybrook did not find the appellant's account relating to the listening device to be credible.

3. The appellant's next application was an Article 8 human rights claim made on 28 April 2018. This was based on the private life the appellant had established in the UK. The respondent considered the application by reference to para 276ADE(1)(vi) of the Immigration Rules but was not satisfied that there would be 'very significant obstacles' to the appellant's integration in Iran. Nor was the respondent satisfied there were exceptional circumstances such as to render the refusal of the appellant's human rights claim a disproportionate interference with his rights protected by Article 8 ECHR. The Refusal Letter indicated that the appellant could contact the Home Office Voluntary Returns Service (VRS) for help on returning to Iran and that the VRS could, inter alia, help obtain travel documents, help with the cost of tickets, and in some cases provide other financial and practical assistance once the appellant had returned to his home country. Details on how to contact the VRS were provided.

4. The appellant appealed the respondent's refusal of his human rights claim to the First-tier Tribunal pursuant to s.82 of the Nationality, Immigration and Asylum Act 2002. The appeal was also principally based on the nature and extent of the private life the appellant had established in the UK and, in particular, the close connections he had established with a network of friends and his relationship with his close friend Mr Saed Ali Alavi and Mr Alavi's family, including his children.

The Decision of the First-tier Tribunal

5. The judge had before him a large bundle of documents prepared by the appellant that included, inter alia, a witness statement from the appellant, witness statement from Mr Alavi, reference letters from other individuals who knew the appellant, various photographs, certificates and awards relating to the appellant, and a report dated 11 March 2018 by Ms Angeline Seymour who is an Independent Social Worker (ISW). The judge heard oral evidence from the appellant and from Mr Alavi and submissions from both representatives.

6. In his decision the judge summarised the appellant's immigration history and the basis of his human rights claim, the evidence given by the appellant and Mr Alavi, and set out the competing submissions from the representatives. In the section of his decision headed "Discussion" the judge noted that the appeal was being advanced on the basis that there were 'very significant obstacles' to the

appellant's return to Iran (para 276ADE(1)(vi)), and on the basis that his removal would constitute a disproportionate breach of his Article 8 private and family life in the UK.

7. At [13] the judge noted that the appellant had not made a fresh protection claim and had not adduced any new evidence that could support such a claim. The judge stated:

> "He [the appellant] cannot rely on the basis of his asylum claim as a reason to conclude there would be very significant obstacles to his return in circumstances where his claim was found not to give rise to any real risk of persecution. In her skeleton argument Ms Tobin refers to the "subjective fear of return as a result of his father's death in custody and his own actions against the Basij" but those were not established to the low standard of proof to be objectively well-founded. His subjective fear did not determine the outcome of the asylum appeal any more than his subjective belief that there will be very significant obstacle to his return determines the outcome under paragraph 276ADE(1)(vi)."

8. At [14] the judge considered the other issues that had been "highlighted" on the appellant's behalf as constituting significant obstacles to his integration. In respect of the contention that the appellant would be homeless on return the judge noted, as highlighted in the Refusal Letter, that the appellant would be able to apply for financial assistance in returning from the VRS which would mean that he would have the financial resources to pay for accommodation well he settled back into life in Iran. The judge was not satisfied that the appellant established that he would be homeless. The judge then noted that a submission concerning the significance of widespread corruption amongst officials had not been further developed in the context of paragraph 276ADE(1)(vi). The judge noted that there was no established direct link between corruption and the appellant's ability to find work in Iran. The judge observed:

> "He [the appellant] retains ties to Iran through language, religion and culture and there is no medical evidence to establish that he would be unable to find work."

9. At [15] the judge noted the absence of radical evidence to establish that the appellant would have very significant obstacles to his integration in Iran for medical reasons. The judge noted that the appellant suffered from depression and anxiety about his unresolved immigration status but that the appellant confirmed at the hearing that he was not taking any medication. The judge noted the absence of any evidence that if the appellant was required to resume taking the antidepressant tablets that he stopped taking about 2017 these would not be available to him in Iran. At [16] the judge stated:

> "Although there may be some initial hardship for [the appellant] in returning to Iran after a decade spent in the UK, the rule requires "very significant obstacles" to his integration and the evidence does not establish that he meets this requirement of paragraph 276 ADE."

10. The judge proceeded to then consider the appeal in respect of Article 8 outside the Immigration Rules. No challenge has been levelled against this aspect of the judge's decision and it is not necessary for me to summarise the judge's careful and detailed evaluation. Having concluded that the appellant did not meet the requirements of para 276ADE(1)(vi) and that his removal would not otherwise be disproportionate under Article 8, the judge dismissed the appeal.

The challenge to the judge's decision

11. The grounds of appeal, amplified by Mr Lemer in his oral submissions, contend that the judge conducted a flawed assessment of the 'very significant obstacles' test. The grounds only challenge the judges assessment under paragraph 276ADE(1)(vi) of the Immigration Rules, a point confirmed by Mr Lemer at the 'error of law' hearing.

12. The judge, it is argued, failed to adopt the appropriate broad evaluative approach to the issue of integration, as detailed in SSHD v Kamara [2016] EWCA Civ 813 ("Kamara") by failing to consider material matters and in considering matters that were not relevant. Specifically, the judge failed to give any consideration to the appellant having arrived in the UK as a minor and thus having no experience of life as an adult in Iran, as detailed in the skeleton argument prepared for the First-tier Tribunal. The fact that the appellant left Iran as a minor was a key element in determining whether the appellant would be enough of an insider to enable him to operate on a day-to-day basis and build up relationships. Further, the judge, it is argued, failed to make any findings or give any consideration to the appellant's account of having no contact with his family or friends in Iran. The grounds further contend that the judge's reliance on the financial support that appellant would receive via the VRS was flawed given the absence of any evidence as to the level of support that would be provided or how long such support would last. The reference to the VRS in the Refusal Letter was said to be vague and incapable of supporting the judge's assessment.

13. On behalf of the respondent Mr Tan invited me to find that the judge was well aware of the appellant's age and that he had no experience of life in Iran as an adult, that the judge proceeded on the basis that the appellant did not have any family in Iran with whom he was in contact, and that the judge was entitled to his conclusion relating to the ability of the appellant to apply for financial assistance under the VRS scheme.

Discussion

14. Both SSHD v Kamara and AS v SSHD [2017] EWCA Civ 1284 considered the concept of "integration" in s.117C(4)(c) of the 2002 Act and paragraph 399A of the immigration rules. The assessment is however equally applicable to the 'very significant obstacles' test in paragraph 276ADE(1)(vi) of the Immigration Rules. In Kamara Sales LJ, with whom Moore-Bick LJ agreed, stated, at [14],

> "In my view, the concept of a foreign criminal's "integration" into the country to which it is proposed that he be deported, as set out in section 117C(4)(c) and paragraph 399A, is a broad one. It is not confined to the mere ability to find a job or to sustain life while living in the other country. It is not appropriate to treat the statutory language as subject to some gloss and it will usually be sufficient for a court or tribunal simply to direct itself in the terms that Parliament has chosen to use. The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life."

15. In AS Lord Justice Moylan rejected a submission that so-called "generic" factors, such as intelligence, health, employability and general robustness of character, were irrelevant when assessing a person's ability to integrate, and held that such factors can be relevant to whether there are very significant obstacles to integration as they form part of the "broad evaluative judgment" (at [58] and [59]). The Court of Appeal rejected a submission that the issue whether someone was "enough of an insider" was to be determined by reference to their ties to the country of proposed removal.

16. The judge did not expressly refer to Kamara, but this does not of itself constitute an error of law if the judge has, nevertheless, undertaken a broad evaluative assessment. The judge properly directed himself as to the proper test in paragraph 276ADE(1)(vi) and undertook that assessment by reference to the appellant's circumstances and the evidence upon which he relied.

17. A careful assessment of the judge's decision shows that he was demonstrably aware that the appellant entered the UK as a minor and that he had resided in this country since 2009 (see [1], [3], [9], [16], [29]). The judge was not required to repeat or refer to all the evidence before him when completing the 'reasons' section of his decision and the judge's analysis must be considered in the context of his full written decision. It is irresistibly clear from the decision that the judge was aware that the appellant had not resided in Iran as an adult and that he had not worked in Iran or experienced life there as an adult. The judge was nevertheless satisfied that the appellant would be able to reintegrate into Iranian society having regard to his age when he left the country (the judge was additionally aware that the appellant was almost 27 years old at the date of the judge's decision), his retained ties to Iran through language, religion and culture, and the absence of any cogent medical evidence that he would be unable to find work. These were relevant factors when undertaking the broad evaluative assessment. In this context the judge did not fail to consider relevant matters.

18. The judge was also demonstrably aware of the appellant's claim to have no family or friends in Iran (see the judge's record of the appellant's evidence at

[3], [5], and the submissions made on his behalf at [9]). The judge's assessment of the paragraph 276ADE(1)(vi) test at [14] to [16], properly understood, proceeded on the basis that the appellant did not have any friends or family in Iran. Whilst there was no explicit finding on this point, nothing in the decision, considered as a whole, suggests that the judge approached the question of integration on the basis that the appellant had a network of support available to him in Iran. Given the various references in the decision to the absence of any family or friends in Iran, this was a matter in respect of which the judge was aware and which he must be deemed to have taken into account.

19. It was for the appellant to prove, on the balance of probabilities, that there are "very significant obstacles" to his integration in Iran. The Refusal Letter made the appellant aware that he may be eligible for financial assistance through the VRS. The contact details for the VRS where provided, including the relevant World Wide Web address. The judge was entitled to note that the appellant was able to apply for financial assistance. It was for the appellant to prove that he would not be eligible to receive any financial assistance via the VRS scheme as an element of the test in paragraph 276ADE(1)(vi). The appellant did not provide any evidence to the First-tier Tribunal of his ineligibility. There was no evidence before the First-tier Tribunal, or indeed before the Upper Tribunal, that the appellant was incapable of fulfilling the requirements for financial assistance under the VRS. I am, in the alternative and in any event, satisfied that the judge was entitled to take judicial notice of the fact that the appellant could apply for financial assistance up to £3000 through the VRS scheme given that he had an asylum claim refused and that he was in the UK illegally and was returning to a developing country. In the absence of any evidence that the appellant would not be eligible for financial assistance, the judge was entitled to take into account the appellant's ability to apply for financial assistance.

20. I consequently find that the judge's decision discloses no error on a point of law. The appeal is dismissed.

Notice of Decision

The judge's decision did not involve the making of an error on a point of law.

The human rights appeal is dismissed.

D.Blum 1 June 2021

Signed Date
Upper Tribunal Judge Blum