



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

Appeal Number: PA/10838/2019

**THE IMMIGRATION ACTS**

**Remote Hearing by Skype  
On 23<sup>rd</sup> February 2021**

**Decision & Reasons Promulgated  
On 9<sup>th</sup> April 2021**

**Before**

**UPPER TRIBUNAL JUDGE MANDALIA**

**Between**

**S A B  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Woodhouse, HS Immigration Consultants

For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. An anonymity direction was made by the First-tier Tribunal (“FtT”), and as this a protection claim, it is appropriate that the direction continues. Unless and until a Tribunal or Court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify the appellant or any member of her family. This

direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

2. The hearing before me on 23<sup>rd</sup> February 2021 took the form of a remote hearing using skype for business. Neither party objected. The appellant did not join the remote hearing, but Mr Woodhouse confirmed the appellant is aware of the hearing and he was content to proceed in the appellant's absence. I sat at the Birmingham Civil Justice Centre. I was addressed by the representatives in the same way as I would have been if the parties had attended the hearing together. I was satisfied that no party has been prejudiced and that, insofar as there has been any restriction on a right or interest, it is justified as necessary and proportionate. I was satisfied that it was in the interests of justice and in accordance with the overriding objective to proceed with a remote hearing because of the present need to take precautions against the spread of Covid-19, and to avoid delay. I was satisfied that a remote hearing would ensure the matter is dealt with fairly and justly in a way that is proportionate to the importance of the case, the complexity of the issues that arise, and the anticipated costs and resources of the parties. At the end of the hearing I was satisfied that both parties had been able to participate fully in the proceedings.
3. The appellant is a national of Iran. She arrived in the UK on 10<sup>th</sup> November 2017 and claimed asylum. The appellant's claim for asylum was refused by the respondent for reasons set out in a decision dated 24<sup>th</sup> October 2019. Her appeal was dismissed by FtT Judge French for reasons set out in a decision promulgated on 3<sup>rd</sup> February 2020.

#### The decision of First-tier Tribunal Judge French

4. The background to the appellant's claim for international protection is set out in paragraph [1] of the decision. Judge French noted the appellant had come to the adverse attention of the Iranian authorities previously on two occasions. The first was in 2007 when the appellant had been

interviewed for 3-4 hours following a politicised acceptance speech at an awards ceremony. The second was in 2009/10 when the appellant had campaigned against the Presidential election results. Judge French noted the claim made by the appellant that she had been arrested and was raped whilst in custody. Drawing upon the evidence set out in the appellant's witness statement dated 1<sup>st</sup> August 2019, Judge French noted:

".. Her departure had not been prompted by either of these incidents as she confirmed in paragraph 54 of her statement dated 1/08/19. However she claimed that she felt compelled to leave Iran because of an adverse reaction by the authorities to a documentary project that she had worked on with her husband (paragraph 33 witness statement dated 1/08/19). This documentary was intended to highlight the exploitation of women. She said that her investigation had revealed that the son of a well-known Muslim cleric, had been involved with an underage girl. It was said that her camera had been confiscated by the authorities as had her laptop, and an external hard drive, where she had stored previous footage. Whilst her husband had been interviewed, he had not been charged with an offence. However the appellant claimed that she decided that it would be unsafe for her to remain in Iran. She claimed that she had left Iran on about 22/08/17 and initially went to Turkey, and from there went to Germany. She claimed to have entered Germany on a fake passport even though she also had a genuine passport in her possession and that both passports were seized by the German authorities. She had been fingerprinted in Germany on 18/08/17 and claimed asylum there but did not await the outcome of her application...."

5. Judge French refers to the content of the appellant's bundle at paragraph [3] of his decision and summarises the content of the expert report of Roya Kashefi that was relied upon by the appellant. He noted the appellant's bundle also includes an independently obtained transcript of the asylum interview and a translation of what purports to be a lease of premises, "*.. which appear to be for domestic use since it refers to 2 bedrooms.*". Judge French goes on to say "*.. Moreover there is an oddity in that the lease is said to be for a period of 12 months from 6/11/16 to 7/11/16 (p.87 in the bundle).*". He also refers to a prescription for 10mg of amitriptyline dated November 2019 and generic material about conditions in Iran.

6. Judge French had the opportunity of hearing oral evidence from the appellant and her evidence is set out at paragraph [4] of the decision. In her written and oral evidence the appellant sought to explain the discrepancies between the information she had provided in her screening interview, her asylum interview and her witness statement. The appellant confirmed that her camera equipment had been confiscated when she was interviewing an individual who I shall refer to as [N], and she did not have any copy of the footage. Previous interviews were stored on a laptop which was also seized by the authorities. She explained that the work that she had done on the documentary had revealed information about [N's] relationship with the son of a Mullah, which would be embarrassing for the regime if it came out. She was not aware of any arrest warrant issued against her but remained adamant that her life would be at risk if she returned to Iran. Before Judge French the appellant said that she was told to tell the authorities that her husband was in Turkey, although in truth, he had never left Iran. She confirmed that she was in regular contact with her husband and had spoken to him two days previously. She did not know how her husband was supporting himself financially although he had previously worked as a writer. They had never talked about his work during their telephone conversations, but her "guess" was that he might be under surveillance. The appellant also confirmed that she has a brother and sister in Iran, with whom she speaks on the telephone from time to time. Judge French also noted the appellant claims to have mental health difficulties, but the only evidence of treatment was a prescription for amitriptyline at a dosage of 10 mg "*.. which is not a dosage that would normally be used for a mental health problem..*".
7. The parties submissions are set out at paragraphs [5] and [6] of the decision. The Judge's findings and conclusions regarding the claim for asylum are set out in paragraph [7]. Judge French said:

"In arriving at my decision, the first issue I needed to address was the credibility of the appellant. I take into account all the available

evidence, whether or not I specifically refer to such evidence in this judgement. In making my assessment I bear in mind both the points made by the respondent in the refusal letter and the explanation given by the appellant solicitors, as to the misunderstanding and misinterpretation. I am also conscious that even where assertions might seem implausible, it does not necessarily mean that they are untrue. However there are a number of claims made by the appellant that I do not believe. I do not believe the appellant is in jeopardy from the Iranian authorities because of the work she had done in the preparation of the documentary, and the information she had uncovered about the son of [an Ayatollah]. The evidence of the appellant's expert is that the Iranian authorities are trying to close down the Chastity Houses, which are effectively brothels. They are not supportive of such establishments. Moreover the expert says that a person would be unlikely to suffer adverse consequences from the authorities of (*sic*) it were perceived that the motivation for the documentary was simple (*sic*) to highlight a women's rights issue. In those circumstances I do not believe that the fact that the appellant claimed to be working on the documentary in itself would have resulted in persecution by the authorities, critically bearing in mind, as the expert reported that "Film makers per se are not at risk". I have also taken into account that the appellant's husband ([AA]) was said to have been involved in the documentary project and yet he had only been detained for questioning for 3-4 hours. He had not been killed or subjected to inhuman treatment. As far as the appellant knew, her husband was not prohibited from continuing to work. It had not been contemplated that [the appellant's husband] would need to flee from the authorities. Since no action had been taken against [the appellant's husband], I find no reason to believe that the appellant would be at risk by returning to Iran. My belief was supported by the fact that there was no evidence that an arrest warrant had been issued for the appellant. I also bear in mind that the appellant had no remaining material relating to the documentary as a whole and in particular the interview with [N]. There was no indication that any information had leaked onto the Internet. [the appellant's husband] was aware of the allegations but the authorities had not considered that it was necessary to imprison him to suppress the information, so I do not consider that there is any reason for the appellant to be imprisoned. To be clear, despite the appellant's claims I do not believe that the appellant would be at risk by returning to Iran and therefore she did not qualify for asylum or humanitarian protection."

### The appeal before me

8. The appellant claims Judge French erred in his analysis of the evidence before the Tribunal. The appellant claims Judge French mistakenly proceeds upon the premise that a lease relied upon by the appellant was

for domestic use when it was for the “purpose of artistic and cultural company”, and, erroneously stated that amitriptyline 10mg is not used for the treatment of mental health conditions. The appellant also claims Judge French misquoted the expert report which confirms the widespread existence of Chastity Houses and the involvement of ranking officials. It is said that the content of the expert report was entirely consistent with the appellant’s account and in misquoting or selectively reading the expert report, the Judge has reached a conclusion that was not open to him. Furthermore, the appellant claims that in considering the risk upon return, Judge French failed to consider the appellant’s previous adverse dealings with the Iranian authorities and whether those dealings created an additional risk factor.

9. Permission to appeal was granted by First-tier Tribunal Judge Bullpitt on 18<sup>th</sup> March 2020. He said:

“3. The judge’s assessment of the appellant’s account is at [7] of his decision. The judge does not mention in this paragraph the appellant’s claim of previous persecution, including rape by state authorities. It is arguable therefore that the judge has failed to make a finding about what is arguably a material matter and has failed to give adequate reasons for his findings. Permission is granted on this basis since it is arguable that there has been a material error of law.

4. Although the mistakes it is asserted the judge made in respect of the medical and expert evidence may well be immaterial in the context of the appeal as a whole, all grounds may be argued.”

10. Before me, Mr Woodhouse relied upon Grounds or appeal and the written submissions set out in the letter dated 12<sup>th</sup> August 2020 sent to the Tribunal by HS Immigration Consultants.
11. Mr Woodhouse submits the Judge did not reject the appellant’s account that she had preparing a documentary addressing the exploitation of women in Chastity Houses. He submits Judge French selectively misquoted the expert report to give the impression that the expert’s view is that the authorities do not support or have involvement with Chastity Houses. However, at paragraphs [98] to [104] of the report, the expert

confirmed the involvement of officials, and at paragraph [112] confirms, entirely consistent with the appellant's account, that clerics and well-connected officials are involved. The expert evidence goes further than the summary provided by the judge in paragraph [3] of the decision and the appellant claims the expert's report is not properly reflected in paragraph [7] of the decision.

12. Mr Woodhouse submits that in his assessment of the risk upon return Judge French should have considered the appellant's previous dealings with the authorities that he summarised in paragraph [1] of the decision, as being factors that are relevant to the appellant's profile. He failed to have regard to those adverse interactions with the authorities in his assessment of the risk the appellant would now face upon return. The appellant did not have to be at on-going risk from the previous incidents. She had an adverse profile that would be relevant and should have been considered when considering whether the appellant would be at risk, now.
13. Mr Woodhouse submits Judge French erroneously considered that the fact that the appellant's husband had not encountered problems, also means the appellant would not be at risk. He accepts that the fact that the appellant's husband has not been targeted by the authorities is relevant, but he submits, it does not follow that appellant would not be at risk. The appellant's husband had no previous adverse profile.
14. Mr Woodhouse acknowledges there was no further evidence before the FtT regarding the health of the appellant beyond the prescription for amitriptyline 10mg and it is not apparent why the Judge said at paragraph [4] that the dosage of 10mg would not normally be prescribed for a mental health problem. Mr Woodhouse accepts any erroneous reference to the prescription for amitriptyline 10mg, and the lease, is not material to the outcome of the appeal.

15. In reply, Mrs Aboni submits the Judge directed himself appropriately and engaged with the evidence before him. She submits the determination demonstrates that Judge did adequately engage with the expert's report and the Judge was entitled to find, at paragraph [7], that the appellant was unlikely to suffer adverse consequences because the appellant was seeking to highlight a women's rights issue. The appellant's husband had also been involved, but he had only been questioned once and had had no further problems. There was no evidence that the appellant was of any ongoing interest to the authorities because of the events that occurred in 2007 and 2009/10. Mrs Aboni submits Judge French has given adequate reasons for his finding the appellant would not be at risk upon return now.

### Discussion

16. It is now well established that it is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case provided the Judge explains in clear and brief terms their reasons, so that the parties can understand why they have won or lost. Those reasons need not be extensive if the decision makes sense, having regard to the material accepted by the judge.
17. The assessment of the risk upon return and credibility of the claim advanced by an appellant is always a highly fact sensitive task. The ingredients of the story, and the story as a whole, have to be considered by reference to the evidence available to the Tribunal. The respondent had identified in her decision a number of reasons why the appellant's account of her activities in Iran were not credible.
18. Taking the appellant's claim at its highest, Judge French did not believe the appellant is in jeopardy from the Iranian authorities because of the work she had done in the preparation of the documentary and the



information she had uncovered. In reaching his decision Judge French considered the expert report relied upon by the appellant. Paragraphs [95] to [107] the expert report deal with Chastity Houses. In answer to questions posed by the appellant's representatives the expert stated at paragraph [112]:

“Based on my knowledge and wealth of information on the Internet more often than not a cleric or in the least a well-connected official was involved to provide protection for the setup. If arrested they can argue that all they were doing was engaging in the legitimate business of temporary marriage and providing a service through an introduction.

19. At paragraphs [113] to [115] of the report, the expert confirms that running a brothel is illegal and efforts are made to close them down, although many turn a blind eye either because of the rank of the people engaged in the business or the fear of further giving it a bad name through the likely publicity. The expert expresses the opinion that the fact that the cleric's son used such places is highly likely to be resolved religiously, and the cleric's son could argue that she was his 'Sigehe wife' during the times he was with her and as such nothing illegal had taken place. It would not be hard to refute any claim that [N] had, since it could be argued that she was his 'Sigehe wife'. However, public opinion and the backlash against the clergy would be most unwanted and anyone exposing such goings-on could potentially be charged with national security charges since challenging a powerful ayatollah is challenging the system. The expert was asked what harm, if any, could come to the appellant as a result of her learning this information. Paragraph [116] of the report states:

“It very much depends on what the authorities believe her intentions are/were at the time of making the documentary. If they believe that she intended to edit and produce a final version for distribution and she intended to expose the son of [an Ayatollah], judicial and extrajudicial threats to her safety and liberty would be greater and on a different level to say, if they believe her intention was to narrate the piece as a woman's right issue and did not expose him directly.”

20. I reject the claim that Judge French failed to have adequate regard to the expert report and misquoted it. The appellant confirms in her witness statement that the project that she had in mind was to make a documentary and speak about the women who were involved in the Chastity Houses. She states “.. *I wanted to find out their views and their stories and document how they reached the position they were in...*”. The project was important to her because she wanted to highlight the plight of those women. She does not claim that she intended to expose the son of [an Ayatollah]. At Question 120 of her interview, she explains that when asked whether she had permission or a licence to film or interview people, she said ‘*no because it is not going to be broadcast on TV*’. In any event, on the appellant’s own account, any material that she had, was confiscated.
21. On the evidence before the Tribunal it was open to Judge French to note that the expert says that a person would be unlikely to suffer adverse consequences from the authorities if it were perceived that the motivation for the documentary was simply to highlight a women’s rights issue and that the fact that the appellant claimed to be working on the documentary itself, would not have resulted in persecution by the authorities.
22. The decision of the First-tier Tribunal must be read as a whole. Although the appellant’s overall profile is important, Judge French noted what had happened in the past and considered whether the appellant would be at risk upon return now. Here, a summary of the claim made by the appellant is set out by the judge at paragraphs [1] and [3] to [4] of the decision. Judge French noted the appellant’s claim that she had attracted the adverse attention of the Iranian authorities in 2007, and again in 2009/10. I have carefully read the appellant’s witness statements that were before the First-tier Tribunal. On the appellant’s own case, she had been able to return to acting in 2013, win an award for her performance in a play written by her husband in 2014 and to marry in

2015. There was no evidence before the Tribunal that the Iranian authorities had any interest whatsoever in the appellant between 2010 and June/July 2017. As Judge French properly noted, the appellant herself confirmed in her witness statement that her departure from Iran had not been prompted by either of the two earlier events. She claims she felt compelled to leave Iran because of an adverse reaction by the authorities to a documentary project that she had worked on with her husband since around March 2017 and following the incident in June/July 2017 when she was approached by three local police officers who asked her if she had a licence for the filming and interviewing and had confiscated her camera.

23. The appellant also claims her husband had been interrogated about the content of the videos, and he had been released pending investigation. Despite the passage of time, the Iranian authorities have not demonstrated any further interest in the appellant's husband and as the appellant accepts, there was no evidence of any arrest warrant having been issued against her. It was open to Judge French to have regard to the fact that the appellant's husband was said to have been involved in the documentary project and appears to have suffered no adverse consequences. The appellant is in regular contact with her husband and other members of her family and there was no evidence before the Tribunal that the Iranian authorities have shown any interest in the appellant since her departure.
24. At paragraph [87] of the expert's report, the expert refers to several pages in Farsi associated with the appellant and her husband associated with a TV serial shown on Iran's state broadcasting. Judge French noted, at paragraph [3] of his decision, that there was nothing to show that the screening that was to begin in December 2017 did not proceed.
25. On appeal, the Upper Tribunal should not overturn a judgment at first instance, unless it really cannot understand the original judge's thought process when the judge was making material findings. In my judgement,

Judge French identified the issues and gave a proper and adequate explanation for his conclusions on the central issues on which the appeal was determined. The findings made by the judge were findings that were properly open to the judge on the evidence before the Tribunal. The findings cannot be said to be perverse, irrational or findings that were not supported by the evidence. Having carefully considered the decision of Judge French I am quite satisfied that the appeal was dismissed after the judge had carefully considered the facts and circumstances of the claim, and all the evidence before him.

26. It follows that in my judgement the decision of First-tier Tribunal French is not vitiated by a material error of law and the appeal is dismissed.

**Notice of Decision**

27. The appeal is dismissed.

Signed **V. Mandalia**  
March 2021

Date 26<sup>th</sup>

**Upper Tribunal Judge Mandalia**