IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-001621
First-tier Tribunal No: PA/03136/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 23 March 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

ZSA
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mrs L Brakaj of Iris Law Firm.
For the Respondent: Ms Z Young, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 16 January 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. The appellant appeals with permission a decision of First-tier Tribunal Judge Cope ('the Judge') promulgated on the 29 December 2021 in which the Judge dismissed the appellant's appeal on protection and human rights grounds.

2. The appellant claimed to be a citizen of Iran who faces a real risk on return as a result of activities both within Iran and his sur place activities within the UK. primary finding the Judge was required to make related to whether the appellant's claim to be a citizen of Iran is true.
3. The Judge sets out his findings and reasons from [28] of the decision under challenge. The Judge notes at [35] that there had been a previous appeal hearing on 16 December 2016 as a result of the appellant challenging the refusal of his claim for asylum, made on 29 January 2016, on 12 July 2016. The Judge had a copy of the earlier decision in which the appellant claimed that he is an Iranian citizen.
4. The Judge notes there are two principal aspects of the evidence and submissions, firstly that the appellant had provided a witness Mr Ibrahimi ('the witness') who came to speak to knowing him in Iran and, second, in relation to his sur place activities in the UK.
5. The Judge clearly took the evidence of the witness into account with the required degree of anxious scrutiny noting the contrast between what the witness said and what the appellant told him in his oral evidence given previously [70] for which there was no explanation.
6. At [72] the Judge writes "*I also consider that both the Appellant and Mr Ibrahimi were notably vague about how often and when they had met in Iran when they were cross-examined by Miss Cornford*". The Judge noted what he considered to be other further significant contradiction in the evidence between the appellant and his witness regarding how they met in the UK at [73] and further evidential difficulties at [74 – 76].
7. At [92 – 97] the Judge writes:

> 92. Having done so, in accordance with the guidance given in Devaseelan I am not satisfied that the Appellant has shown that these new matters that she has put forward either on their own or taken in conjunction with the evidence previously put before Judge Hussain to lead me to take a different view on his international protection claim in relation to events in Iran then that reached in the earlier judicial decision and findings.
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> 93. In coming to this conclusion I have given as much credit as I can to the Appellant for the degree of consistency that I accept that there is, both internally and with the background evidence, in his claim to be at risk of death or serious ill-treatment if he were to be removed to Iran.
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> 94. In my judgement however the factors which might point towards the Appellant being a witness of truth are outweighed by the difficulties that I have identified above. Whilst I would accept that some at least of these might not in themselves there are so many difficulties, many of them significant in themselves, with the evidence that they cannot be classed as peripheral or unimportant.
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> 95. In addition there is the very high degree of implausibility concerning significant parts of the Appellant's claim that I have set out above which I consider also counts against his credibility as a witness.
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> 96. As a result I am not satisfied that the Appellant has shown that it is reasonably likely that he has been telling the truth in connection with his claim for international protection.

> 97. In particular I do not accept that it has been shown to this lower standard of proof that the Appellant is a citizen of Iran.

8. The finding in relation to nationality was fatal to the rest of the appellant's claim which is based upon an alleged risk on return to Iran.
9. The grounds seeking permission to appeal assert, inter-alia, the Judge made no findings in relation to the witness and reached no conclusion as to whether he had been a witness of truth, and that even if the appellant's account was not accepted it could be accepted that the witness was telling the truth about his knowledge or memory of the appellant during his time in Iran. The grounds also challenge the decision claiming there seem to be standard paragraphs copied and pasted into the decision arguing that, if not, they suggest the appellant is consistent internally and against the background evidence but that the evidence was not accepted due to implausibility whereas nothing implausible had been identified in the previous paragraphs. The Grounds argue is not clear why the Judge considered certain information relevant, that that although the appellant did not speak of his witness in his witness statement it is unclear what is suggested by that, and that the lack of reasoning is said to be indicative of the failure to reach overall conclusions as to the credibility of the witness and that in order to reach a conclusion all matters must be considered. The grounds argue that if it was accepted the appellant is a national Iran no major dispute was raised regarding risk.
10. Permission to appeal was granted by another judge of the First-tier Tribunal and the basis it is said to be an arguable error of law that the Judge made no findings as to the reliability of the witness's evidence and it was incumbent upon the Judge to make it clear whether he was accepting or rejecting the evidence of the witness, and to say why, and that although the ground other grounds alleging some inconsistency do not seem to be the strongest grounds permission to appeal was granted on all grounds.

Error of law finding

11. This is a detailed determination in the style of this Judge, trying to cover every angle and point in dispute within the body of the determination. Whilst the number of the points made do not focus upon the core issue the Judge was clearly aware of the need to properly consider the central issue of the appellant's nationality.
12. It is not necessary for a judge to set out each and every aspect of the evidence and make findings in relation to the same provided the core points have been taken into account and the evidence factored into the decision-making process. At paragraph 49 of MA (Somalia) [2010] UKSC 49, it was said that "*Where a tribunal has referred to considering all the evidence, a reviewing body should be very slow to conclude that that tribunal overlooked some factor, simply because the factor is not explicitly referred to in the determination concerned".*
13. In relation to the claim to be an Iranian national, the Judge had the evidence of the appellant, including that which had been discredited by the judge in the earlier decision, and the evidence of the witness in its written and oral form. The Judge also had the benefit of seeing and hearing oral evidence being given as a result of which, when assessing the weight that could be given to that evidence holistically, the Judge highlighted a number of discrepancies and inconsistencies as set out in the body of the determination.

14. In the determination promulgated on the 11 January 2017 First-tier Tribunal Judge Hussain rejected the appellant's claim to be a citizen of Iran noting the following concerns in relation to the evidence dealing with this aspect of the appeal:

> 7. The appellant worked in Iran for his father who traded in goods or transporting goods between the Iraqi and Iranian border. Typically, the goods that he traded in involved food, fruit, petrol and alcohol. After that, he worked for his paternal uncle in his shop. His duties at the shop involved cleaning and serving customers when his uncle was away. I take judicial notice that serving customers involves taking money, calculating the cost of the goods purchased and giving the appropriate amount of change in return. This requires an ability to do basic maths and requires some education-to-have-been-reeeived-clt-also-requires-a-knowledge-of-the-value-of-the goods sold.
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> 8. The appellant's ability to calculate change does not satisfy me that he is as illiterate as he has claimed.
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> 9. The appellant gave an inconsistent answer about the cost of a bottle of water which he would be expected to know if he worked in the shop. The appellant was unable to name the lowest denomination of banknote of the Iranian currency which, again, if he worked in the shop, he would be expected to know.
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> 10. The appellant's lack of knowledge of the cost of a bottle. of water or the value of the lowest denomination of the Iranian banknote does not satisfy me that he worked in a shop. It therefore damages credibility and calls into question his assertion that he is from Iran.
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> 11. The most troubling aspect of his evidence was that he did not know the months of the Iranian calendar. This is a basic part of everyday knowledge and his failure to identify the months in question could not be explained by his illiteracy. This also called into question whether he was from Iran.
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> 12. Taking everything into account, I am not satisfied that the appellant is as illiterate as he claims or that he is from Iran. His otherwise positive answers in connection with Iran are not sufficient to persuade me otherwise.

15. Ms Brakaj was asked during the course of the hearing what additional evidence the appellant had provided in relation to this core issue. It transpired that this was the evidence from the witness and further information relating to the appellant's sur place activities in the United Kingdom, said to support his claim to face a real risk if returned to Iran.

16. Whilst the Judge does not set out a separate line in the determination saying "I find the witness not to be credible" the Judge clearly did not accept that the evidence that had been given relating to when the appellant and witness met and how they knew each other in Iran, which is the basis of the witnesses evidence the appellant is a citizen of Iran, was not consistent or credible. It can clearly be inferred from the finding made by the Judge that he did not accept the appellant is an Iranian citizen as the evidence did not support such a finding, that he also found the evidence of the witness not credible too.

17. In R and Others v SSHD [2005] EWCA Civ 982 Lord Justice Brook said that there was no duty on an Adjudicator in giving his reasons to deal with every argument presented by an advocate in support of his case. It was sufficient if what he said showed the parties and, if needs be, the IAT the basis on which he had acted and if it be that he had not dealt with some particular argument but, it could be seen that there were grounds on which he would have been entitled to reject it, the IAT should assume that he had acted on those grounds unless the appellant could point to convincing reasons leading to a contrary conclusion. The judgement (of the Adjudicator) need not be lengthy. Not every factor that weighed with the Adjudicator in his appraisal of the evidence had to be identified and explained. But the issues the resolution of which was vital to the Adjudicator's conclusion did have to be identified and the manner in which he resolved them explained. Lord Justice Brooke said that the practice of bringing appeals because the Adjudicator or Immigration Judge had not made findings on matters of peripheral importance ought now to come to an end.
18. In Mohammed Daud v SSHD [2005] EWCA Civ 755 the Court of Appeal said that where an adjudicator had failed to give express reasons for a material finding, it may nevertheless be possible to infer from his overall determination what those reasons would have been and to uphold his determination on that basis.
19. A reasonably informed reader of the determination can clearly understand why the Judge concluded as he did in relation to both the evidence of the witness and the appellant. I find no legal error established on this ground.
20. In relation to the remaining grounds of challenge I find no merit in the same. The core finding of the Judge is clear, namely that the evidence did not support the appellant's claim to be a citizen of Iran. That was the finding of both this judge and the earlier judge. There is nothing in the paragraphs quoted in the grounds that underlines this conclusion. It may be that if the appellant was found to be credible in relation to nationality the appeal may have been allowed but that is not the issue. The Judge did not find the appellant's claim to be an Iranian national credible and the remaining issues therefore fall with this finding.
21. It was not disputed before me that the Judge did not need to set out reasons for each and every aspect of the evidence, said the fact they do not need to do so is settled law. I do not find it made out that the Judge was required to set out any further or additional paragraphs to enable the reader to understand the conclusions that have been reached in relation to the issue of nationality. I find no merit in the argument the Judge did not understand the issues or failed to assess the evidence by reference to specific points the Judge needed to consider, as agreed with the advocates.
22. Arguing the Judge erred as there was a no degree of consistency in the evidence is disagreement with the Judge's findings that there is. Judge Hussain gave very plausible reasons for why the appellant's claim to have worked in the shop in Iran lacked credibility. That determination was not challenged. It was reasonable for Judge Hussain to expect a person who claimed to work in a shop to have known the cost of a bottle of water and the lowest denomination of the Iranian banknote and have known the months of the Iranian calendar. That is not a matter of literacy but of a person living in a society where there would be a relevance of knowing the months; especially if Kurdish when certain celebrations occur on certain months. There was insufficient material provided by the appellant to establish it was appropriate on the facts, when applying the principles of

fairness, to depart from the earlier conclusions as per Devaseelan. The Judge was entitled to compare the facts as found against the claims made by the appellant and the witness in assessing what weight could be given to that evidence as a whole. I find no merit in the submission that there is no indication in the determination that all the evidence had been assessed. The fact the appellant disagrees with the Judge's finding does not mean that material aspects of the evidence have not been factored into the decision-making process.

23. The submission the decision does not give the impression the Judges grappled with all relevant points has no merit when a reader of the determination shows the Judge undertook the necessary holistic assessment, when the document is read as a whole. It was not made out there was anything implausible about the Judge's findings and in particular the submission in the grounds of irrationality is not made out.

24. I find the appellant has failed to establish that the Judge has erred in law in a manner material to the decision to dismiss the appeal sufficient to warrant the Upper Tribunal interfering any further in this matter. The Court of Appeal have remined us of the need to exercise caution before characterising as an error of law what is no more than a disagreement with the assessment of facts: see MA (Somalia) v Secretary of State for the Home Department [2010] UKSC 49.

Notice of Decision

25. There is no material error in the determination of the Judge. The determination shall stand.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

16 January 2023