



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

Appeal Number: AA/00049/2013

THE IMMIGRATION ACTS

**Heard at Manchester
On 1st July 2013**

**Determination Sent
On 3rd July 2013**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MR FARHAD GHIYASI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Brown (instructed by Bolton District CAB)
For the Respondent: Mr A Tan (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant is a citizen of Iran born on 14th May 1984. He appeals to the Upper Tribunal against a decision of the First-tier Tribunal (Judge Manuel) dated 20th March 2013 dismissing his appeal against the Secretary of State's decision to refuse him asylum and to remove him to Iran.
2. Permission to appeal was originally refused by a Judge of the First-tier Tribunal but then granted by Upper Tribunal Judge Lane on 20th May 2013. Judge Lane found it arguable that the Judge may have erred in law in respect of her adverse credibility findings.

3. Thus the matter came before me. My first task is to decide whether First-tier Tribunal Judge Manuel made an error of law and if so whether and to what extent her determination should be set aside.
4. Mr Brown appeared to represent the Appellant's interests at short notice as Counsel who was originally instructed was booked simultaneously in another court. I allowed him time to prepare the case and speak to the Appellant and he indicated that he was content to proceed, although in the event that I was to decide that there was an error of law, he was not in a position to deal with the substantive appeal. Mr Tan was in a similar position should an error of law be found and so it was agreed at the outset that the hearing would be limited to the issue of the error of law.
5. The Appellant's claim was based on his imputed political opinion as a result of helping his cousin, Jafar escape from Sepah and Etela'at. Jafar was a member of the "Peoples Free Life Party of Kurdistan"(PEJAK) and wanted by the authorities.
6. The Appellant lived with his parents and sisters. Although his parents are Shia Muslims the Appellant does not practices his faith and does not attend a mosque.
7. In October 2012 the Appellant's cousin Jafar returned to his parents' home to attend his father's funeral accompanied by a friend called Reza. The Appellant had also travelled to the funeral from Karaj where he lived. Jafar's attendance was unexpected because his father's death was a result of torture he had suffered at the hands of Sepah who were trying to establish Jafar's whereabouts.
8. While they were present at the funeral an old friend of the Appellant's father telephoned at night informing him that Sepah were on their way to the house. That friend worked for/had links with Sepah.
9. The Appellant's father instructed him to take his car and get Jafar and Reza away, which he did. As they were leaving the village they saw another car entering the village and some 15 to 20 minutes later once they were on the main road, the other car caught up with them. There was an exchange of gunshots between that car and the car the Appellant was driving. Reza was shooting back at the other car.
10. The Appellant managed to lose the other car and parked in a side road where he contacted his maternal uncle and explained what had taken place. His uncle instructed them to stay where they were and that he would come to them, which he did. The uncle told the Appellant that Sepah had found the car and that the persons from Sepah in the other vehicle were badly injured.
11. The Appellant's uncle then kept him in hiding for 4 to 5 days before arrangements were made to leave Iran.

12. In her determination Judge Manuel made a number of adverse credibility findings and it is those that are challenged in the grounds.
13. The first challenge is to the Judge's finding that at paragraph 27(iii) of the determination where she states "It is difficult to see how the Appellant's father and uncle would be friends with this man, particularly given the evidence that the Appellant's uncle was repeatedly detained, questioned and ill treated over a period of 3 to 4 years regarding his son's political activities, and who died following torture inflicted by Sepah." This is a reference to the warning telephone call received by a friend of the Appellant's father who was involved with Sepah. The grounds submit that the Judge did not seek any clarification concerning this at the hearing and that she failed to consider the Appellant's evidence that this man was an old Kurdish friend of his father's and that it is perfectly plausible for an old friend to warn them in this way. This person had attended the funeral.
14. This grounds is simply a disagreement with the Judge's findings which on the basis of the evidence she heard were open to her. She had set out that the Appellant said in his interview that this friend had telephoned to say "They are coming towards the house". The Appellant was asked how he knew that the authorities were coming and he had said that he didn't know exactly but he thought that his father's friend had a hand in Sepah. In cross-examination the Judge records that the Appellant did not know the exact details of what this friend said to his father but as far as he knew he was in contact with Sepah. The Judge records that the Appellant was asked whether he was saying that this man was a friend of his uncle who the authorities had just killed and he repeated an earlier answer without explaining how it was that his man was a friend of the family and yet linked to those responsible for his uncle's death and who were hunting Jafar. It is entirely reasonable for the Judge to query the friendship between the Appellant's father and uncle and a man who worked for the responsible for his uncle's death.
15. The next ground challenges the Judge's finding at paragraph 28 where she said that there was no evidence to show that the Appellant and his cousin Jafar were particularly close. She said this in the context of the lack of credibility in the Appellant risking his life in order to help him. The grounds submit that the Judge's reasoning was irrational. The Appellant was related by blood to Jafar and therefore how close they were was irrelevant and furthermore his father told him to help them. Again, that is a disagreement with what the Judge concluded and her conclusions were open to her on the evidence. The evidence was that the Appellant had not seen Jafar for some three or four years. Jafar was not alone but with another friend, Reza. The Appellant had no connection with PJK. It was clear that the Judge did not accept, for the reasons she gave that Jafar was unable to drive and therefore there was no reason why the Appellant should had been involved at all. That finding was properly open to her. She found it not credible that Appellant's father would instruct his only son to risk his life for a virtual stranger when there was no need to do so.

16. The next challenge relates to the same part of the determination where Judge Manuel did not accept as credible the Appellant's answer at interview that it would not make any difference to his father if he was killed. Again, this is nothing more than a disagreement with the Judge's conclusions. The Judge noted the Appellant was his father's only son. There were clearly alternatives to his being involved and she simply did not accept the entire claimed incident to be credible. While the explanations contained in the grounds offer an alternative conclusion, the Judge's conclusions were properly open to her.
17. The next ground challenges paragraph 29 of the determination where the Judge refers to discrepancies as to how Reza shot the occupants of the Toyota vehicle and submits that the Judge, had she considered questions 113 - 121 of the interview record, would have noted that he had clarified matters and that it was wrong to conclude that there was inconsistency or discrepancy.
18. That ground is wholly without merit. The Judge properly notes that the Appellant's evidence was very inconsistent as to the entire car chase affair. The Judge noted differing evidence as to how Reza shot at the vehicle behind, whether he broke a window or whether the windows were broken by gunshots. She did not find it credible that the Appellant was unaware of the car chasing him until so late in the incident and she did not find it credible that if the two vehicles were shooting at each other at close range the occupants of the vehicle behind were severely injured whereas neither the Appellant nor his two companions were injured at all. The explanation in the interview record that the grounds refer to is no more than the Appellant denying what he had said previously. It is not an explanation. The adverse credibility findings by the Judge in relation to the incident are numerous. They cannot be explained away as Mr Brown suggested by the judge being mistaken as to the circumstances whether they were the only two cars on the road or not. A high-speed chase taking place, and if the Appellant was concentrating on his driving as he claims he would have been aware of the car chasing him.
19. The next challenge is to the Judge's finding at paragraph 29(vi) that the evidence before her indicated that when confronted with discrepancies the Appellant failed to provide a satisfactory explanation and instead blamed interpreters, former solicitors and Home Office interviewers or typing errors. The ground suggest that in so finding the judge failed to take into account that the Appellant's previous solicitors had withdrawn because of a conflict of interest arising due to incorrect translations. In support of that they refer to a document at page 14 of the Appellant's bundle. That document does not assist the Appellant's case. That document is a letter to the Appellant from his former solicitors wherein they indicate that they had concluded investigations into the Appellant's allegations that the interpreter used during his first appointment with them had inaccurately interpreted what he had said. That the issue had arisen due to a comment

in the Letter of Refusal that there was a discrepancy between what the Appellant had told the Home Office and what he had told his solicitors. Having investigated the matter the solicitors concluded they could no longer represent the Appellant because the interpreter denied there were any interpreting problems and that he had stated that he translated what the Appellant said accurately. This does not benefit the Appellant. Clearly the conflict-of-interest arose because the Appellant had been discovered in making what untrue allegations to his solicitors. The Judge's conclusions were entirely reasonable in the circumstances.

20. The next challenge relates to the Judge's finding that it was not credible that all three of the Appellant's group escaped without injury when the occupants of the other car were seriously injured. That is a perfectly reasonable finding in the circumstances. The other grounds similarly challenged the Judge's findings in relation to the car chase which I have dealt with above.
21. Finally, the grounds refer to paragraph 33 of the determination where the Judge stated that the Appellant remained with a close relative in the same village which indicated that he authorities were not looking for him as he claimed. The grounds submit the Judge failed consider his evidence that he was in hiding at his maternal uncle's for a period of seven days. Mr Brown expanded upon that submitting that the evidence did not in fact point to the Appellant being at his maternal uncle's at all but rather that he was hiding with his maternal uncle. We examined the evidence in the bundle and the interview record at the hearing and it was impossible to ascertain precisely what the evidence was as to where the Appellant was in hiding. It is certainly the case that he said that his uncle had hidden him and he does seem to suggest that they returned to the same place where the funeral had been and the explanation for that had been that there was nowhere else that his uncle could hide him.
22. It is for an Appellant to put forward his case. The burden of proof, remains with him albeit the standard of proof is low. The evidence in this case was clearly less than satisfactory. However, the Judge has taken it all into account and has made properly reasoned findings on the various aspects of the claim concluding that the Appellant lacked any credibility, had displayed an ability to be creative and had not discharged the burden to show that he had a well founded fear of persecution. I can discern no error of law in the way in which she approached the evidence or in her findings.
23. Mr Brown argued that taken cumulatively the grounds did show an error of law such that the determination could not stand. However despite their number the grounds individually do not stand up and so cumulatively they do not do so either.
24. The First-tier Tribunal did not make an error of law in its determination of this appeal and its decision shall stand. The appeal to the Upper Tribunal is dismissed.

Signed

Dated 2nd July 2013

Upper Tribunal Judge Martin