



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

Appeal Number: AA/06927/2014

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 30<sup>th</sup> April 2015**

**Decision & Reasons  
Promulgated  
On 22<sup>nd</sup> May 2015**

**Before**

**UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**KHATEREH ALIPOUR NAEIMI  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr S Tetty of Counsel instructed by Switalski's Solicitors  
For the Respondent: Mrs R Pettersen, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the Appellant's appeal against the decision of Judge Hillis made following a hearing at Bradford on 14<sup>th</sup> October 2014.

## **Background**

2. The appellant is a citizen of Iran born on 30<sup>th</sup> May 1977. She and her children left Iran around 11<sup>th</sup> September 2013 and travelled by lorry to the UK arriving on 10<sup>th</sup> October 2013 when she claimed asylum. She is of Arab ethnicity and a Shia but her husband converted to the Sunni faith. He was a bank manager and, she said, worked with supporters of Arabs in Ahvaz, helping them financially. As a consequence he was transferred to another bank and closely monitored. In February 2013 he was arrested and in June the authorities came to arrest her. She was detained for 10 days. Her youngest son was born on 30<sup>th</sup> August 2013 and when he was 8 days old the authorities came to her home and she was told by a friend of her husband's that she should prepare to leave Iran.
3. The Secretary of State accepted that the appellant was of Arab ethnicity but by her own evidence she had not actually faced any direct discrimination. It was not accepted that her husband had converted to the Sunni faith or that he was a bank manager or that he was arrested or that either of them came to the attention of the authorities in Iran.
4. The judge set out the basis of the appellant's claim and the submissions of both parties. He rejected the respondent's submission that inconsistencies between the screening interview and her present account adversely affected her credibility because she had not been provided with an interpreter in her main language, and she was interviewed shortly after being removed from a lorry with her children. Moreover, she was also informed that she would not be asked to go into detail about her asylum claim.
5. The judge was provided with a number of documents. First, there was a letter from the Ahwazi Democratic Front which confirmed that she had been persecuted in Iran due to the activities of her husband and his conversion to the Sunni faith. However it gave no detail of his activities and nor did it mention her husband's imprisonment.
6. There was also a letter from the Lincoln Green Mosque dated 19<sup>th</sup> September 2014 which confirmed that she and her children attended there, and had declared themselves to be members of the Sunni sect to the best of their knowledge. However it did not say that they were members of the mosque and gave no indication that she had ever been regarded as a member of the Shia faith or that she had converted from it to the Sunni faith. Moreover the letter gave no indication that the author was aware of the use to which the letter was being put.
7. Documents were produced in relation to the appellant's husband, in particular from the bank where he was employed, but the letter gave no detail of his job description or salary and the judge concluded that it did not support the contention that he occupied a senior position or that he did not conform to the bank's policies. He inferred from them that he worked as a level 5 bank manager in Ahvaz and was then transferred to

the Khuzestan branch but there was no evidence to show that the transfer was either a promotion, a sideways move or a demotion. There was a document showing a judicial order was obtained in the Khuzestan province, and that the prisoner, the appellant's husband was to be escorted to the "coroner" at Ahvaz for a medical examination and that a report of the outcome was to be sent back to the court. It did not state whether he was in police custody or in prison following a conviction or awaiting trial for any offence. The judge concluded that it provided no evidential support for the claim that her husband was being persecuted as opposed to being prosecuted lawfully for an alleged criminal offence in accordance with Iranian law.

8. He concluded as follows:

"I therefore conclude that the documentation shows that the appellant's husband joined the Refah Bank at Ahvaz branch and appears to have progressed in his career to attain the status of level 5 bank manager by 9<sup>th</sup> February 2012 and that he was transferred to the Khuzestan branch. I also find they offer no support to the claim that he was discriminated against at the bank and targeted for observation by the Iranian authorities for anything other than a valid criminal offence and that he is being persecuted in Iran as opposed to prosecuted in a proper legal fashion. Additionally there is no mention of his alleged conversion from the Shia to the Sunni faith of Islam."

9. So far as the conversion was concerned, the appellant's witness statement said that the authorities in Iran would have targeted her husband if his secret conversion to the Sunni faith had been known. This was in direct contradiction to her oral testimony when she said that the government were initially unaware of his conversion but once they found out they arrested him and took him away before she left Iran for the UK. She would not have made a mistake as to whether or not her husband's claimed secret conversion had been discovered if the claim was genuine, and he rejected it.
10. In relation to the targeting of her husband, he said that the appellant's account of the assistance her husband gave to Arab customers was vague and not from her own personal knowledge. He did not find it credible that her husband as an Arab would continue to be employed if he was discriminated against as claimed and was acting in breach of the bank's lending policy to Arabs.
11. The appellant claims to have been arrested and detained on two occasions, the first when she was three months' pregnant and the second when seven months' pregnant. There was no medical evidence.
12. There was a discrepancy in relation to the lodging of the house deeds as surety. In her witness statement the appellant said that her father placed his house deeds as surety whereas in oral evidence she said that it was not the house her father lived in but another house he owned. There was

a further contradiction in relation to the period of time she spent at her father's home after her release.

13. Moreover, the appellant had no passport and claimed to have taken her 3 children, one of whom was only 9 days old across the border into Turkey without any difficulty. The judge did not accept that she could have survived a 15 day journey from Turkey to the UK with a 9 day old child without any apparent need for medical attention on arrival in the UK.
14. On that basis he dismissed the appeal.

### **The Grounds of Application**

15. The appellant sought permission to appeal in very detailed grounds, challenging the judge's conclusions.
16. First in respect of her route to the UK, there was an inconsistency between the judge's acceptance of her state of mind at the screening interview and his conclusions about her journey, which had not been challenged by the respondent. Reaching adverse conclusions without giving an opportunity to address his concerns amounted to a procedural irregularity.
17. Second, the judge had acknowledged that Iranian authorities would not issue a document stating that they hold him in custody for being an Arab bank manager who failed to discriminate against other Arabs, and he had therefore erred in expecting the documents to support the appellant's case so far as her husband's occupation was concerned. The judge was required to consider her written and oral evidence and contrast it with the country evidence to consider whether the account was reasonably likely to be true which he had failed to do. He had not properly explained why he believed her husband was in detention for prosecution rather than persecution.
18. Any medical evidence could not categorically prove that the appellant had received injuries as a result of her ill-treatment.
19. The judge had failed to properly consider the answers given in her asylum interview when the appellant said that she did not call herself a Shia because of the wrongs that they do, and that the majority of Arabs of Ahvaz have converted to Sunni.
20. Finally he had not properly considered the country guidance case of SA (Iranian Arabs) [2011] UKUT 41 which held that the authorities were suspicious of Iranian Arabs and such people might be interrogated more vigorously or which enhances the risk on return. The appellant would be going back to Iran as a failed asylum seeker from London, an Ahwazi Arab who had exited illegally and would be interrogated and detained upon arrival. If that is the case her detention would breach Article 3 of the ECHR according to the Respondent's own evidence in its Operational Guidance Note.

21. Permission to appeal was granted by Designated Judge Macdonald on 1<sup>st</sup> December 2014.
22. On 4<sup>th</sup> December 2014 the Respondent served a reply defending the determination.

### **Submissions**

23. Mr Tetty relied on the grounds. Turkey's border with Iran was porous and the judge had failed to give clear reasons for his findings. The appellant had given brief details of her journey in her screening interview when she said that she had come by lorry and it had taken about 15 days, and in her substantive interview when she said that she did not know all the countries but she made the journey in a lorry/trailer.
24. The documents which had been produced substantiated the account; it was perfectly plausible that the appellant's husband would have been persecuted for assisting Arab customers as he claimed. The country material was supportive in relation to the detention.
25. Finally the judge had failed to engage with the submission that according to the Respondent's OGN it was accepted that prison conditions in Iran breached Article 3 of the ECHR and accordingly, if detained at the airport, the appellant would be at risk of Article 3 ill-treatment.
26. Mrs Pettersen defended the determination and made the following points. She submitted that the judge was entitled to rely on the contradictions between the witness statement and the oral evidence in relation to whether the appellant's husband kept his conversion secret. He was entitled not to accept the evidence of the journey from Turkey to the UK particularly as she had had a caesarean operation only 9 days before she left and the baby was still very young. He had looked at all of the documentary evidence in the round and entitled to conclude that they did not say what the appellant claimed. The detention was tied to the issue of whether the authorities knew of the conversion. Finally the OGN did not support the submission that questioning at the airport would breach Article 3.

### **Findings and conclusions**

27. There is no error in this determination and the overly lengthy grounds amount to a mere disagreement with the decision.
28. The grounds fail to address the key issue before the judge which was the discrepancy in the evidence in relation to whether the Iranian authorities were aware of the claimed conversion or not, and which goes to the heart of this claim.

29. First, with respect to the journey, this is not a core element of the appellant's case but in any event the judge was entitled to have reasonable doubts that a woman who had just undergone major surgery and had a newborn baby would be able to undertake such an arduous journey in a lorry over 15 days without requiring medical attention, which cast clear doubt upon her claim to have exited illegally.
30. Second, there is no error in his consideration of the documents. It was open to him to place little weight upon them for the reasons which he gave.
31. So far as the letter from the Ahwazi Democratic Front is concerned, the judge was perfectly entitled to regard it as vague, giving no detail of the activities of her husband and failing to mention that he was imprisoned. The letter from Lincoln Green Mosque does not confirm the claim that the appellant is a convert from the Shia faith. The bank documents confirm his employment but nothing else, and whilst they could not be expected to confirm the details of the appellant's claim, the fact that they do not is not evidence in her favour. They are neutral. There is evidence that the appellant's husband was imprisoned but no detail whatsoever is given for the reason for his incarceration.
32. So far as risk on return as an Iranian Arab is concerned the country guidance states in terms that there is no risk of persecution or other ill-treatment solely by reason of ethnicity. It was accepted that being an Arab returned from the UK enhances other risk factors but, on the sustainable findings of the judge, no other risk factors are present in this case.
33. The submission that the OGN supports the claim that questioning at the airport risks Article 3 ill-treatment is misplaced. It does not. The fact that prison conditions may breach Article 3 is not evidence that such a risk arises from detention at an airport.
34. Overall this is a wholly sustainable determination and the overly lengthy grounds disclose no arguable error of law.

### **Notice of Decision**

35. The original decision shall stand and the Appellant's appeal is dismissed.
36. No anonymity direction is made.

Signed

Date

Upper Tribunal Judge Taylor