



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/00185/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Bradford

Decision & Reasons

On 6 April 2017

Promulgated

On 9 May 2017

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

A I

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Frantzis, instructed by Barnes Harrild & Dyer, Solicitors
For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant claims to be a citizen of Iran who was born in 1992. He entered the United Kingdom in January 2015 and claimed asylum. His application was refused by a decision of the respondent dated 17 June 2015. He appealed to the First-tier Tribunal (Judge Myers) which, in a decision promulgated on 10 October 2016 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are a number of grounds of appeal all of which predicated upon the understanding that the appellant had proved, to the necessary standard, that he was a citizen of Iran. The difficulty for the appellant in this appeal to the Upper Tribunal is that Judge Myers in her decision at [21] found as follows:

In my judgment the appellant's claim was undermined by his failure to clarify the dates in his account but further representations were made by his solicitor. I accept that there can be confusion between the Gregorian and Iranian calendars but the appellant was asked on two occasions during his interview which calendar he was using and he stated that it was the Iranian. In his oral evidence he claimed to have been confused and he did not know the dates because he was an illiterate farmer. If that is the case it would have been an easy enough matter for him to have simply said that he did not know. The burden is on the appellant to prove his case and he has not submitted any information which would establish that Iranian Kurds used the Gregorian calendar. I find the appellant has not established even to the lower standard of proof that he is an Iranian. However, if I am wrong on this I will now consider the claim on the basis that he is Iranian.

3. The last ground of appeal [14] challenges this finding as to nationality. It is asserted that the appellant had not only a "theoretical but also a practical knowledge of life in Iran." The questions in the interview to which the judge has referred [102-103] are dismissed by the grounds of appeal as of little significance because they relate to the appellant's claim to have been a cross-border smuggler. The grounds assert that the answers were "proper evidence in respect of a claim to have been engaged in smuggling on a date it is submitted they were capable of bearing far less weight in regard to nationality."
4. I find that the ground of appeal has no merit. At his interview, the appellant gave evidence which the judge, supporting her finding with clear and cogent reasoning, proved that the appellant was not an Iranian citizen. It does not matter in what context the appellant gave his evidence; the suggestion in the grounds that it was in some way not fair for the judge to find that the appellant's evidence regarding smuggling activities undermined his claim to Iranian nationality is, frankly, nonsense. The appellant's subsequent attempt to explain his inconsistencies (by claiming that he is an illiterate farmer) put the appellant into deeper problems; as the judge observed, if he did not know an answers to questions, he should have said so instead of attempting to invent false answers.
5. I find that the grounds of appeal to the Upper Tribunal do nothing to disturb the judge's primary finding at [21] that the appellant is not an Iranian citizen. For the sake of thoroughness, she went on to make alternative findings on the basis that the appellant is an Iranian citizen. It is those findings which the remainder of the grounds of appeal seek to challenge. However, because I find that her finding as to nationality should stand and has not been successfully challenged by the appellant, it is unnecessary for me to consider grounds of appeal which are predicated on the notion that the appellant is an Iranian citizen. Having found that

the appellant was not Iranian, the judge was not obliged to go on and make a finding as to his true nationality; the Secretary of State will now take steps to determine that nationality. In the meantime, this appeal is dismissed.

Notice of Decision

6. This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 29 April 2017

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 29 April 2017

Upper Tribunal Judge Clive Lane