



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/01811/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 11 May 2017

Determination & Reasons Promulgated
on 12 May 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

BAKHTIAR MOHAMMADI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr D McGlashan, of McGlashan MacKay, Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. A panel of the FtT comprising Designated Judge J Macdonald and Judge Grace dismissed the appellant's appeal by determination promulgated on 25 January 2017.
2. He appeals to the UT on grounds which may be summarised thus:

The FtT in concluding at ¶17 that the evidence of the appellant is not plausible erroneously compared his evidence at screening interview ("SI") with what he said at his subsequent substantive asylum interview ("AIR") and his subsequent statement (¶18, 23-31). The SI is a chance to state briefly why an appellant cannot return. What he says is not to be taken as an authoritative summary of why he is claiming asylum. In concluding that inconsistency between SI and AIR was material, the FtT erred in law. Had the appellant failed to mention at AIR the basis (political opinion) of his claim that would arguably have been material, but failure to mention this at SI (and instead mentioning a problem with his uncle) is not a *material* discrepancy.

The above error distracted the FtT from making findings on the core claim advanced at ¶3 – 10 of the statement adopted as his evidence: how he became attracted to the KDPI in Iran, how and by whom

this support was enlisted, what form this took and its consequences. The FtT does not accept or reject this evidence. Alternatively, if it was rejected, that must have been because the SI was not consistent with the AIR, a reason not open to it as set out above.

The FtT erred because its misgivings about the appellant's evidence of how he arrived in the UK (¶19-21, 33) have no bearing on the core issue. Evidence about the method by which the appellant reached the UK may not have persuaded the FtT, but that has no bearing on whether his fear of persecution is well founded.

Submissions for appellant.

3. The panel over-emphasised the SI, contrary to *YL* [2004] UKIAT 145, ¶19:

... a screening interview is not done to establish in detail the reasons to support [the] claim for asylum ... Further the screening interview may well be conducted when the asylum seeker is tired after a long journey. These things have to be considered when any inconsistencies ... are later evaluated.

4. The panel took no account of the proper distinction among evidence drawn from a SI, an AIR, and a witness statement. The weaknesses identified did not go to the core claim. No account was taken of the appellant's witness statement at ¶15, 16 and 17 in response to the refusal decision. The same principles applied to show error in the panel's approach to issues over the appellant's travel. He had made it clear his dating was approximate, tried to hide nothing and made no embellishments. Any discrepancies were insignificant. This was not the type of case where an inaccurate account of travel showed that the appellant was not in his country at the time of claimed events.

Submissions for respondent.

5. Comparison between SI and a later account is legitimate, as stated in *YL*, also at ¶19:

Asylum seekers are still expected to tell the truth and answers given in screening interviews can be compared fairly with answers given later.

6. The appellant was asked at screening interview about matters which ought to have led him to disclose the core of the case and which did disclose significant discrepancy - see the decision at paragraphs 21 and 25. The appellant's inconsistency over dates and timings did go to events in Iran - see paragraph 30. The panel was justified in finding that the appellant was not an accurate witness over his journey from Iran to the UK. That was not the fundamental reason for finding against him, but they were entitled to take it as detrimental to the rest of his account. The panel gave full reasoning set out at paragraphs 16 to 34, with which the grounds amounted only to a partial disagreement.

Response for appellant.

7. The appellant's later evidence regarding his ill-treatment by his uncle when he was a young boy was not an embellishment of his case but explanation of how it had been misunderstood by the respondent. The panel failed to appreciate that, and should not have taken this chapter of the evidence as disclosing any material discrepancy. A

discrepancy identified at paragraph 25 over how long he had known the person who introduced him to the KDPI was immaterial, given that his position had always been that they came from the same village.

Discussion and conclusions.

8. The appellant goes too far in arguing that discrepancies arising from a SI or over travel to the UK cannot be held as materially adverse, and in submitting that there were no other reasons.
9. Some of the self-contradictions and weaknesses in the appellant's evidence were plainly significant, and there is not said to have been any error in identifying them: e.g. paragraph 23, oral evidence that the appellant's uncle did not know about his KDPI activities while he was in Iran; SI evidence, his uncle found out he was helping the KDPI and threatened him; paragraph 26, oral evidence that everyone in the village knew his uncle was in the *Ettela'at*; not credible a KDPI member would risk asking for help from his relative (and household member) rather than from someone unconnected to the security services.
10. Tribunals in general know the need to approach inconsistencies based on screening interviews and on peripheral matters with some caution, and know that core accounts may be upheld notwithstanding discrepancies of that nature. This was a panel of two judges with considerable experience of assessing such issues. Whether inconsistencies were material, in other words the degree of weight to be given to them, was, within reason and the established parameters, a matter for the panel.
11. The grounds and submissions do not show that the tribunal gave any matters a degree of weight which went beyond reason, or fell into any error of legal approach. The grounds resolve into no more than selective disagreement on the facts.
12. The determination of the First-tier Tribunal shall stand.
13. No anonymity direction has been requested or made.



11 May 2017
Upper Tribunal Judge Macleman