



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

Appeal Number: PA/02919/2017

THE IMMIGRATION ACTS

Heard at Field House

On 11th July 2017

Determination

Promulgated

On 12th July 2017

Before

UPPER TRIBUNAL JUDGE LINDSLEY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

WA

(ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Mr N Bramble, Senior Home Office Presenting Officer

For the Respondent: Ms N Ahmad, of Counsel, instructed by BHD Solicitors

DECISION AND REASONS

Introduction

1. The claimant is a citizen of Iran born in 1994. He arrived in the UK in September 2016 and applied for asylum the next day. His claim was refused on 10th March 2017. His appeal against the decision was dismissed by First-tier Tribunal Judge Courtney in a determination promulgated on the 8th May 2017.

2. Permission to appeal was granted by First-tier Tribunal Judge Parkes on 1st June 2017 on the basis that it was arguable that the First-tier judge had erred in law in failing to make clear why the claimant's internet activities would have come to the attention of the Iranian authorities, and why he would be asked about them on return to Iran; and further in failing to apply SS (Iran) [2008] EWCA Civ and in considering that AB and Others (internet - state of evidence) Iran [2015] UKUT 0257 is a country guidance case.
3. The matter came before me to determine whether the First-tier Tribunal had erred in law.

Submissions - Error of Law

4. In her grounds of appeal the Secretary of State argues that it was an error of law for the First-tier Tribunal to have found that the appellant's Facebook posts put him at risk on return. The First-tier Tribunal was not bound by AB and Others as it is not a country guidance case and should have given lesser weight to it than such a case. The authorities would not be likely to view the contents of his Facebook in the same light due to his being illiterate, and this relevant factor has not been considered. In SS (Iran) the Court of Appeal find that it is necessary to show how the Iranian authorities will be aware of an opponent's activities in the UK. As the appellant's activities were very limited in scope and time he cannot be said to have discharged the lower standard of proof. Mr Bramble said he was not going to make any further submissions on the application.
5. I indicated to both parties that I did not find the First-tier Tribunal had erred in law for the reasons set out in the grounds, but would put my full reasoning in a written decision.

Conclusions - Error of Law

6. There is no evidence that the First-tier Tribunal saw the case of AB and Others as a country guidance case, it is not referred to as such at paragraph 36, and in contrast when referring to the country guidance case of SSH and HR (Iran) the First-tier Tribunal is clear to note that this is a country guidance case and consider the particular circumstances in which it can be departed from, see paragraphs 28 to 35 of the decision.
7. It was quite proper for the First-tier Tribunal, at paragraphs 36 and 45 of the decision, to place reliance on AB and Others as a reported decision of the Upper Tribunal. Further, matters of weight to be given to evidence are ones for the judge hearing any case, unless such weight is irrational which this cannot be said to be. The extract from AB and Others, cited at paragraph 36, goes to the issue as to why it is likely that the appellant's Facebook activities might come to the attention of the authorities. It is supported by two other reasons: the appellant's travel on a special travel document and his return as a Kurd - the latter

point being supported by an ECtHR case, SF and Others v Sweden. Similarly, when AB and Others is cited at paragraph 45 it is found to be supported by what is said in SF and Others v Sweden in relation to the risk to the appellant even if he posted the material in an opportunistic fashion. The Secretary of State does not point to any evidence that suggests that the Iranian authorities will perceive the appellant as someone who does not oppose them just because he is not an educated man.

8. The First-tier Tribunal cites in detail the appellant's Facebook postings at paragraph 37 of the decision, and considers issues with the spelling of his name but concludes that a search against his correct name brings up his site. The conclusion of the First-tier Tribunal is that given the low tolerance of criticism by the Iranian regime, the critical nature of the Facebook postings, and the likelihood of the material coming to the attention of the intelligence services at the airport that the appellant faced a well founded fear of persecution by virtue of his imputed political opinions. I find that the decision is well reasoned and contains no errors of law.

Decision:

1. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
2. I do not set aside the decision
3. I uphold the decision of the First-tier Tribunal allowing the appeal on asylum and human rights grounds.

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I do so in order to avoid a likelihood of serious harm arising to the appellant from the contents of his protection claim.

Signed: Fiona Lindsley
Upper Tribunal Judge Lindsley

Date: 11th July 2017

