



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/06468/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
On 4 October 2017**

**Decision and Reasons  
Promulgated  
On 16 November 2017**

**Before**

**UPPER TRIBUNAL JUDGE CONWAY**

**Between**

**MR KARZAN QADREE  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms McCallum  
For the Respondent: Ms O'Brien

**DECISION AND REASONS**

- 1.** The appellant was born in 1994. His nationality is disputed. He appeals against a decision of the Respondent made on 6 June 2016 to refuse his application for asylum.
- 2.** The basis of the appellant's claim is that he is an Iranian national who fears persecution by the authorities who caught him smuggling alcohol and weapons over the Iraq/Iran border. In or around November 2015 while smuggling goods he was ambushed by the authorities and detained for one night. He was released on bail to attend court. However, he went back to his activities. Soon after his family called to say they had received papers and his life was in danger and he should not return. They had more evidence against him. An arrest warrant had been served. An uncle arranged for his exit from Iran.

3. The Respondent refused the application. It was not accepted that he is an Iranian national. His knowledge of his home area and Iran generally was vague. When fingerprinted in France he claimed to be a citizen of Iraq. His claim to have been ambushed, detained and released on bail was also not believed.
4. He appealed.
5. Following a hearing at Glasgow on 20 December 2016 Judge of the First-Tier David C Clapham dismissed the appeal on asylum grounds. His findings are at paragraph 44ff.
6. At [44] he states: *'The Appellant has conceded that when he was fingerprinted in France he provided a false name and a false nationality. The Appellant did not hesitate when in France to create a story to suit his purpose. When the Appellant was in France he claimed to be Iraqi and used a false name. The Appellant was prepared to lie when he was in France in order to avoid being sent back. In my view, the provision by the Appellant of a false name and a false nationality while in France must undermine his credibility ...'*
7. The judge went on (from [45ff]) in considering the appellant's historical account to find substantial differences between his oral account and that given in his statement. He made additional adverse findings. A medical report did not provide support for the account. He concluded (at [52]) that the account was *'entirely lacking in credibility'*.
8. He sought permission to appeal on three grounds: failure to provide adequate reasons, failure to make a finding on nationality and failure to give sufficient weight to the medical report. Permission was refused.
9. The application was renewed on identical terms to the Upper Tribunal.
10. Permission was granted on 21 August 2017 by UTJ Gill who stated:

*'The appellant claimed to be a national of Iran. The Secretary of State disputed his claimed nationality. It is arguable that it is unclear from the decision of (FTJ) whether the judge accepted or rejected the appellant's claimed nationality. It is therefore arguable that the judge failed to resolve a material fact in issue.*

*Permission is therefore granted on ground 2. Permission is refused on the remaining grounds. Contrary to ground 1 (FTJ) did give adequate reasons for his findings. There is no substance in ground 3. It was for the Judge to decide what weight to give the medical report.'*

11. At the error of law hearing before me, Ms McCallum essentially repeated the submission made in the grounds about lack of a finding on nationality. The written submissions which were before the judge set out at length why the claimed nationality should be accepted based on the internal and

external consistency of evidence provided by the appellant. It was material because it supports his credibility if he is Iranian. It also affects risk on return.

**12.** Ms O'Brien's position was that he would be removed to the country of which he claims to be a national if he was not at risk there. He has made no claim with regard to risk in Iraq. The inference from the judge's decision is that he is Iranian whose historical account was disbelieved. Even if the finding on nationality was unclear the findings were clear that he would not be at risk if returned to Iran.

**13.** In considering this matter it is for the appellant to establish his nationality. The Respondent considered that he had not established that he is Iranian as he claims. From my reading of para [44] by stating that the appellant '*conceded that when he was fingerprinted in France he provided a false name and a false nationality*' the inference is that the judge found that the appellant is Iranian but that his willingness to lie about that matter to the French authorities and his failure to claim asylum in France did not assist his overall credibility.

**14.** However, in the event that it was an error not to make a clear finding on nationality I do not consider that it was material because the judge at [45-52] went on to give numerous reasons for concluding that the Appellant had been untruthful about his claimed problems in Iran as a smuggler. The judge rejected the account. No successful challenge has been made to these findings which were properly open to him on the evidence for the reasons he gave. Even if the appellant left Iran illegally and is returned as a failed asylum seeker, as an Iranian male of whom no adverse interest has been manifested by the Iranian State he does not face a real risk of persecution/breach of his Article 3 rights on that basis (*per SSH and HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 00308*).

**15.** Thus, he is not at risk on return to Iran.

### **Notice of Decision**

The decision of the First-tier Tribunal does not show the making of a material error of law.

That decision dismissing the appeal stands.

No anonymity direction made.

Signed

Date 16/11/2017

Upper Tribunal Judge Conway

