Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/08298/2016

THE IMMIGRATION ACTS

Heard at Bradford	**Decision & Reasons Promulgated**
On 18 September 2017	**On 20 September 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

AKA
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr O'Ryan of Counsel
For the Respondent: Mrs Pettersen a Home Office Presenting Officer

DECISION AND REASONS

Background

1. 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 AKA. 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 preserve the anonymity of AKA as this is a protection claim.

2. The Respondent refused the application for asylum or ancillary protection on 25 July 2016. His appeal against this was dismissed by First-tier Tribunal Judge Bagral ("the Judge") following a hearing on 6 January 2017.

The grant of permission

3. Tribunal Judge Mailer granted permission to appeal (19 June 2017) as it is arguable that the Judge materially erred in;
   (1) failing to consider YL v SSHD 2014 EWCA Civ 450 properly regarding the weight to be attached to the screening interview,
   (2) failing to consider and understand background evidence material to his lack of knowledge of Christianity, and
   (3) finding the account implausible as it is not consistent, despite saying if it is true then his father's behaviour is plausible.

Appellant's position

4. Mr O'Ryan relied on his written grounds (summarised at [3] above). He identified the key passage in YL was at [19] and was supported by JA v SSHD [2014] EWCA Civ 450 at [24]. The background evidence from the Danish Refugee Council noted the difficulties those who sought information about Christianity had in Iran. Consistency and plausibility have been conflated.

Respondent's position

5. It was submitted in the rule 24 notice (11 July 2017) that the Judge directed herself appropriately and made findings open to her.

6. Mrs Pettersen submitted that even if the Judge erred regarding the weight to be attached to discrepancies arising from the screening interview, she gave numerous reasons for finding against the Appellant given the discrepancies regarding the chronology over his broken leg, and regarding the evidence of his contact with the girl he had befriended.

Judge's findings

7. It was found as follows

> "28. While there is no evidence the Appellant has undergone the formal ritual of Baptism, he claims that he decided to become a Christian in Iran having become disillusioned with Islam and after reading a section of a book about Christianity and learning about it through a Christian girl he befriended at the bazaar.
>
> 29. If the Appellant's claim is true then his account of his father's violent behaviour is plausible in a country such as Iran. However, I

consider that the Appellant's account is not plausible as he has not given a consistent account of past events.

30. The Appellant was first interviewed by the Respondent on 29 January 2016 - a day after his arrival. He said that he came to the UK to claim asylum so it is reasonable to assume that his reasons for doing so would be at the forefront of his mind. He did not claim that he suffered from any physical or mental impairment. When asked to briefly explain the basis of his claim he stated that he had changed his religion because he fell in love a Christian girl. He claimed that he had changed his religion 2 - 3 days before he left, and that his father threatened to kill him.

31. While I acknowledge that this initial screening process does not require applicants to advance the full basis of his claim, I am entitled to take into account what the Appellant said about it when first asked to do so shortly after his arrival. The Appellant's initial claim that he had changed his religion because he had fallen in love with a Christian girl did not correlate to the account he gave during the substantive interview or in evidence. While the Appellant accepts in his witness statement that what he said in this regard was incorrect, he gives no explanation for the inconsistency. He did, however, claim to have said at interview that he loved her as a friend. I do not accept that. The Appellant does not claim to have faced any difficulties with the interpreter at that interview and there are no reasons why his claims would not be accurately recorded. I am satisfied that the Appellant's explanation is not true and this undermines his credibility.

32. I am satisfied that the Appellant's claim that he changed his religion 2 - 3 days before he left Iran is also not true. In cross-examination the Appellant claimed that he changed his religion a month before he left and further claimed that (sic) is father found the book one to two months before he left Iran. The inconsistency is obvious and it is not credible, if his latter claims are true, that he was able to remain living with his violent father who had threatened to kill him for a period of one to two months without being subjected to serious harm.

33. There was a real likelihood that the Appellant would have been so given his claim that his leg was broken during the course of a severe beating following an argument with his father about religion, but the Appellant has not been consistent relating that event either. It is the Appellant's claim that his leg was broken when he was 15 or 16 years old. In evidence he confirmed that he was 16. Whether he was 15 or 16 is immaterial, but whichever it is his leg was broken in around 2010/2011. When interviewed in 2016, however, he claimed that his leg was broken "one year ago"; which must have been in 2015. That is not consistent with his claim that his leg was broken into 2010/2011. I do not accept the explanation that he was referring to when his leg stopped hurting which was a year ago. That evidence is not supported by his response to question 3 when he was specifically asked if he had a broken leg in the past, and is further undermined by his claim at question 153 that his leg was broken two years ago. An examination of the Appellant's account thus reveals that he has proffered three timescales of when he claims his leg was broken which significantly

undermines his credibility. Furthermore, the Appellant claimed that he met the girl one or two years before his leg was broken, which undermines his claim in his witness statement that he met her after his leg was broken.

34. The Appellant's account of his level of contact with this girl is also varied. At interview he claimed that they met about three times a month, sometimes even more, but in his witness statement this diverged to sometimes "twice a week, sometimes there would be a break of maybe two months".

35. The Appellant as asked about the book he borrowed from his friend at interview. He claims to have borrowed the book five years ago and it remained in his possession until it was discovered by his father either 1 or 2 months or 2 - 3 days before he left Iran. I do not believe that if the Appellant was in possession of this book which helped to mould his interest in Christianity that, he could not initially remember the title of the book; where he got it from; who gave it to him and what happened to it. A break in interview then followed for about twenty-five minutes following which the Appellant was asked about the book again. In the meantime, the record shows that his memory had remarkably improved as he then claimed that he obtained the book from his friend five years ago.

36. The Appellant's evidence as to how this girl practiced her religion and his own stated intentions as to how he would do so if returned are further undermined by his evidence. In his witness statement he claimed that as far as he was aware the girl and her family practised their religion at home. This changed to a firm indication in re-examination that she attended church in Iran. That undermines his evidence that he was not aware of a church he could visit in Iran, and his evidence to me that he would attend church if now returned to Iran, undermines his claim that if he had been aware of a church in Iran he would not have attended because of the dangers of doing so. The Appellant cannot have it both ways and this evidence in my view is inconsistent and nonsensical.

37. Notwithstanding the Appellant's claim that he has reached a fundamental decision to convert to Christianity, his reasons for doing so are particularly vague. He says that he became interested in Christianity before he met the girl in the bazaar. He states that it is a religion free of violence and hatred, but when asked at interview on several occasions how he became aware of Christianity his initial responses failed to answer the question. It was only after several attempts to extract an answer did the Appellant vaguely claimed that he became interested in Christianity because he had seen many Christian people in Iran wearing crosses and looking peaceful – see [B12]. This is fanciful to say the least.

38. The Appellant accepts through Mr O'Ryan that his knowledge of the Christian faith is limited. The Appellant's knowledge was tested during the asylum interview where he was asked questions about Christianity. While the Appellant was able to answer some basic questions his level

of knowledge was not indicative of someone had been interested in the faith for several years.

39. I have included in my consideration an assessment of the two photographs taken of the Appellant in attendance at a church service and a third of him standing next to a priest, but they are of little to no probative value. While they purport to show the Appellant had been in attendance at a service, I do not accept that they are evidence of his interest in Christianity and neither are the copies of church notices and literature. I am satisfied in the context of the evidence overall that the photographs/church materials (which the Appellant cannot read) have been produced solely to bolster a false claim."

Authorities quoted (my underlining)

8. JA states in [24]

"In the absence of a statutory provision of the kind to be found in section 78 of the Police and Criminal Evidence Act 1984, I do not think that in proceedings of this kind the tribunal has the power to exclude relevant evidence. It does, however, have an obligation to consider with care how much weight is to be attached to it, having regard to the circumstances in which it came into existence. That is particularly important when considering the significance to be attached to answers given in the course of an interview and recorded only by the person asking questions on behalf of the Secretary of State. Such evidence may be entirely reliable, but there is obviously room for mistakes and misunderstandings, even when the person being questioned speaks English fluently. The possibility of error becomes greater when the person being interviewed requires the services of an interpreter, particularly if the interpreter is not physically present. It becomes greater still if the person being interviewed is vulnerable by reason of age or infirmity. The written word acquires a degree of certainty which the spoken word may not command. The "anxious scrutiny" which all claimants for asylum are entitled to expect begins with a careful consideration of the weight that should properly be attached to answers given in their interviews. In the present case the decision-maker would need to bear in mind the age and background of the applicant, his limited command of English and the circumstances under which the initial interview and screening interview took place."

9. YL states at [19]

"When a person seeks asylum in the United Kingdom he is usually made the subject of a 'screening interview' (called, perhaps rather confusingly a "Statement of Evidence Form –SEF Screening–). The purpose of that is to establish the general nature of the claimant's case so that the Home Office official can decide how best to process it. It is concerned with the country of origin, means of travel, circumstances of arrival in the United Kingdom, preferred language and other matters that might help the Secretary of State understand the case. Asylum seekers are still expected to tell the truth and answers given in screening interviews can be compared fairly with answers given later. However, it has to be remembered that a screening interview is not

> done to establish in detail the reasons a person gives to support her claim for asylum. It would not normally be appropriate for the Secretary of State to ask supplementary questions or to entertain elaborate answers and an inaccurate summary by an interviewing officer at that stage would be excusable. 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 between the screening interview and the later case are evaluated."

Discussion

10. I am not satisfied that the Judge materially erred in her treatment of the Appellant's screening interview. She was aware of his age, his journey details, and the limitations of its' scope. She was entitled to place some weight on it and was entitled not to exclude it. The weight she attached was a matter for her. The Judge did precisely what she was required to do as guided by JA and YL. Even if the Judge did err regarding her consideration of the screening interview, I am not satisfied that it was material, as, if one excludes the discrepancies that arose from the screening interview, there were multiple discrepancies within the rest of the evidence that were not infected by her consideration of the screening interview.

11. I am not satisfied that the Judge materially erred in her treatment of the Danish evidence. It was acknowledged that his knowledge was limited. The Judge was entitled to find that his level of knowledge was not indicative of someone who had been interested in the faith for several years. That is particularly so given the multiple discrepancies highlighted in the decision regarding when he first met the girl and what piqued his interest in Christianity.

12. I am not satisfied that the Judge materially erred in saying that if the Appellant's claim is true then his account of his father's violent behaviour is plausible in a country such as Iran. That is not putting the cart before the horse as alleged. It is merely stating the obvious. The Judge has also not materially erred in saying that the account is implausible as it is not consistent as consistency is part of the assessment of credibility, and that assessment feeds into the assessment of plausibility.

Decision:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Deputy Upper Tribunal Judge Saffer

19 September 2017