



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

Appeal Number: PA/08993/2016

**THE IMMIGRATION ACTS**

**Heard at Stoke on Trent  
On 1 August 2017**

**Decision Promulgated  
On 3 August 2017**

**Before**

**Deputy Upper Tribunal Judge Pickup**

**Between**

**OK**

**[Anonymity direction made]**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the appellant: Ms N Wilkins, instructed by Paragon Law

For the respondent: Mr G Harrison, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, OK, date of birth [ ] 1999, is a citizen of Iran.
2. I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. However, the First-tier Tribunal made an order pursuant to rule 13(1) of the Tribunal Procedure Rules 2014. Given the circumstances, including the appellant's age, I continue the anonymity order.
3. This is his appeal against the decision of First-tier Tribunal Judge Shanahan promulgated 20.4.17, dismissing on all grounds his appeal against the decision of the Secretary of State, dated 12.8.16, to refuse his protection claim. The Judge heard the appeal on 22.3.17.
4. First-tier Tribunal Judge Kinnell granted permission to appeal on 15.5.17.
5. Thus the matter came before me on 1.8.17 as an appeal in the Upper Tribunal.

6. For the reasons summarised below, I found no material error of law in the making of the decision of the First-tier Tribunal such as to require the decision of Judge Shanahan to be set aside.
7. In granting permission to appeal, Judge Kinnell considered it arguable that the judge failed to give consideration to the argument that the appellant would be at risk on return because his past smuggling activities are likely to emerge in interrogation on return. The judge added, "It appears from the record of proceedings that an argument was put the judge along those lines but it has not been adjudicated upon."
8. I have carefully read the record of proceedings relating to the submissions of, Mr Markus, the appellant's representative at the First-tier Tribunal appeal hearing, but I do not see or recognise any such submissions, and there is no witness statement from Mr Markus to support the suggestion. What is recorded is that Mr Markus submitted, inter alia, that "if returned he would be interview and would be expected to tell the truth. Even if he doesn't, the Home Office will be required to give that information." It does not appear that Mr Markus was suggesting that the Home Office would disclose that the appellant was a smuggler, but rather than he was a failed asylum seeker.
9. Whilst relying on SSH & HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 308 (IAC), Ms Wilkins did not go so far as to suggest that the appellant must be expected to volunteer that he has been a smuggler in Iran. However, it was submitted that being a Kurd and having left Iran illegally, he is likely to be closely questioned by the authorities on return. She suggested that there was a possibility that this would expose him to a risk of persecution or ill-treatment for being a smuggler.
10. Whilst the judge of the First-tier Tribunal found at [32] that it was reasonably likely that the appellant worked with his father and brother as a smuggler, the judge did not accept that either father or brother had been killed or arrested by the authorities, or that the appellant himself was sought by the authorities. At [34] the judge concluded, "I am satisfied that there has been no previous adverse interest in the appellant and accordingly he would not face a real risk of persecution or ill-treatment on return."
11. It follows that whilst he will be questioned and cannot be expected to lie, there is no basis upon which the appellant might reasonably be likely to be questioned about smuggling activities in Iran. Ms Wilkins submissions that there is a risk that he will be obliged to disclose that he is a smuggler is an unwarranted leap that is not supported by SSH & HR. His account of being of adverse interest to the authorities as a smuggler has been clearly rejected. It would be speculation and a step too far to suggest that simply because he has been involved in smuggling in the past, he would have to volunteer that information. He was found to have made a false application for international protection, as have many economic migrants, and thus there is no reason for the appellant to make a voluntary disclosure going

beyond that. I do not accept that he would be bound to disclose that he had worked as a smuggler before he left Iran.

12. In the circumstances, I am not satisfied that the ground of appeal is made out. I do not find that there is any error of law in the judge's alleged failure to address a risk of harm on disclosure in questioning on return as to past smuggling activities in Iran.

*Conclusion & Decision*

13. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



**Signed**

**Deputy Upper Tribunal Judge Pickup**

**Dated**

*Fee Award*

*Note: this is not part of the determination.*

I make no fee award.

Reasons: No fee is payable and thus there can be no fee award.



**Signed**

**Deputy Upper Tribunal Judge Pickup**

**Dated**