



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

Appeal Number: PA/05337/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 30th January 2018**

**Decision & Reasons Promulgated
On 26th February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

**R V
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Radford

For the Respondent: Mr S Kotas

DECISION AND REASONS

Introduction

1. The Appellant born on [] 1998 is a citizen of Iran. The Appellant had made a claim for asylum which had been refused by the Respondent and the Appellant had appealed that decision. His appeal was heard by First-tier Tribunal Judge Grant on 24th July 2017 and his appeal had been dismissed. Application for permission to appeal had been made and

initially had been refused by First-tier Tribunal Judge Parkes on 18th October 2017. That application had been renewed to the Upper Tribunal and permission to appeal had been granted by Upper Tribunal Judge Grubb on 15th December 2017. It was said that it was arguable that the judge had erred in reaching an adverse credibility finding in reliance upon the Appellant's evidence in interview that his mother had owned the printing company stating that to be a significant credibility issue but failing to consider subsequent evidence that that assertion was a mistake.

Submissions on Behalf of the Appellant

2. Ms Radford of Counsel submitted that the finding that the mother had owned the printing press was either an error of fact or had given insufficient reasoning as to why the Appellant may have said that in his interview record if it was found not to be an error of fact. She referred to the interview record where throughout there had been reference to the father owning the printing press.

Submissions on Behalf of the Respondent

3. It was submitted by Mr Kotas that this was a safe decision and that even if one error had been made that did not affect materially the judge's decision when looked at in the round.
4. At the conclusion of the hearing I reserved my decision to consider the evidence and submissions made. I now provide that decision with my reasons.

Decision and Reasons

5. Permission had been granted on the basis that the judge had at paragraph 13 of the decision relied upon the Appellant's evidence in interview that his mother owned the printing press but had failed to examine later evidence claiming that this was an interpreter mistake. Whilst the judge had allowed the other grounds pleaded when granting permission he had noted that they may not ultimately be meritorious.
6. The First-tier Tribunal Judge had noted at paragraph 2 the core of the Appellant's claim to fear persecution upon return to Iran, namely because his father ran a printing company and had printed leaflets about MEK, a banned group, at the behest of a friend. Those leaflets had been discovered in a friend's car by the authorities and the Appellant and his father had subsequently fled Iran to Iraq where the father remained. However the Appellant by some means had come to the UK. He was a minor (aged 17) when he entered the UK but became an adult in August 2016 and was such prior to his appeal hearing.
7. The First-tier Judge had nevertheless given due allowance for the Appellant's age (17) when interviewed.

8. The judge had made findings on credibility at paragraphs 7 to 17 of the decision. It is the case that the judge at paragraph 13 referred to the Appellant's interview where he had mentioned his mother owning the printing press. That answer given by the Appellant stood in isolation to the rest of the Appellant's evidence. The judge had made an adverse credibility finding on the inconsistency of that answer and said it was significant. The judge did not refer to the subsequent solicitor's letter in which it was claimed the Appellant asserted that was an interpreter error. Given the judge did not refer to that explanation there was no consideration whether that was a credible explanation or not.
9. If that adverse credibility finding stood in isolation then it would be material. However that finding did not stand alone. The judge throughout, had operated on the basis that it was the Appellant's father according to the Appellant who owned and operated the printing press consistent with the Appellant's claim. Within the parameters of the Appellant's evidence the judge had made ten separate credibility findings. There was a sufficiency of reasoning to support those adverse credibility findings and a logic and pattern to the case. At paragraph 14 the judge had referred to the Appellant's nonchalant manner in terms of the content and manner in which he gave evidence regarding the possible fate of his mother and sister that led to a further adverse credibility finding. Ms Radford criticised the judge for relying upon demeanour and referred to the familiar cases that warn against findings based on demeanour.
10. Judges in the First-tier Tribunal have a significant advantage within the appellate system in that they get to see and hear witnesses give evidence. It is common ground and knowledge that demeanour is a risky factor upon which to base credibility for or against and is rarely deployed. In this case it was the manner of the Appellant's verbal evidence that clearly surprised the judge to the extent that a finding was made. She had the advantage of seeing and hearing the Appellant and the content of his evidence and the feature of that particular part of his evidence. She was entitled to make the observations that she did and to make that one of the adverse credibility findings that were made.
11. In summary the judge had given an adequacy of reasons for making the various adverse credibility findings that were made and were based upon the Appellant's own account of events. Save and except the isolated reference to the mother owning the printing press at question 63 of the interview record that account was based on the Appellant's father being responsible for the press and perhaps more significantly responsible for the printing of the leaflets and the risk principally being against the father who had fled to Iraq. Whilst the judge made an error in not noting the Appellant's self-correction of his answer in interview as recorded within the solicitors letter and perhaps examining whether that explanation was credible or not that particular feature of the case did not stand alone in the judge's examination of the evidence. Accordingly whilst an error was made it was not a material error when one considers the full examination of the Appellant's case by the judge and the adequacy of reasoning given

in the findings made. That specific matter referred to would not have affected the judge's decision in this case and it was a decision clearly open to her on the evidence presented and the findings that were made.

Notice of Decision

12. There was no material error of law made by the judge in this case and I uphold the decision of the First-tier Tribunal.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge Lever

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Deputy Upper Tribunal Judge Lever