



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10585/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
On 02 July 2018

Decision & Reasons Promulgated  
On 27 July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

AKY  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr A Burrett of Counsel, Wick and Co Solicitors

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**DECISION AND REASONS**

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 Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties. Failure to comply with this order could lead to contempt of court proceedings.
2. The Appellant appeals with permission granted in the Upper Tribunal, a decision of the First-tier Tribunal (Judge Wylie) promulgated on 29 Jan 2018, in which the judge

dismissed the Appellant's appeal against the refusal of his claim for international protection.

3. The Appellant is an Afghan whose claim he was born in 2001 was disputed the respondent preferring the Merton compliant age assessment of 01 April 1996. He made a claim for international protection because he was frightened he would be killed by the same people that had killed his brother some 18 months to two years before he fled, and who at that time had acknowledged that they had also been responsible for the death of his father who had been killed when he was 7 or 8 years old as well as that of his paternal uncle a couple of years later when he was about 9 years old. His father had worked for the Mujahidin and so he presumed that the people responsible were the Taliban. The Respondent rejected the credibility of that account and the Appellant contested the credibility findings made by the Respondent. In the event the judge found against him.
4. Permission to appeal was granted by the First-tier Tribunal on 2 grounds firstly that the Judge made no reference to the burden and standard of proof and secondly made no findings as to the appellant's credibility. So far as the criticism in respect of the burden standard of proof is concerned it is set out in some detail and correctly at paragraph 39, and Mr Burrett accepted he was unable to pursue the point before me.
5. In respect of the ground challenging credibility Mr Burrett, who had not drafted the grounds or represented at the First-tier, submitted that the judge had fundamentally misunderstood the appellant's case when stating that the appellant's evidence at its highest i.e. untainted by credibility issues, shows only that many years before he fled his father had been killed by unknown persons, his uncle had been killed by unknown persons and more recently but still significantly prior, his brother had been killed by unknown persons. The appellant's case had always been that in light of his father's allegiance to the mujahedin it was politically motivated and by a Taliban type group, which was why the letter from the elders and the Mujahid council referred to martyrdom. Further the judge failed to make findings in respect of the age dispute.
6. I find that no merit in the points raised by the Appellant. Dealing with the age dispute first. The appellant's representative on the day disclosed an email from Duncan Lewis solicitors showing that the judicial review proceedings which had delayed resolution of the appellant's appeal from the Autumn of 20
7. 16 had been withdrawn and the age assessment by the local authority accepted in light of evidence that was handed the door of the court. The judge has fully taken account of the content of Dr Giustozzi's report opining that the 2016 Taskira produced was authentic, because he has set it out in detail in the decision. The judge found it significant that the report failed to address how the appellant, who had previously said that he had been given a copy of his Taskira by his mother before he fled in 2016 but was unable to provide it because he had lost it on his journey, was now able to rely on a 2016 issued Taskira. The appellant's own evidence saying that he had asked a neighbour to help him get documents to support his claim took it no further because there was no explanation as to how the neighbour had obtained it. The judge also notes

that the two letters provided from the village elders makes no reference to his date of birth or age. The judge was plainly entitled to conclude, as he does at [62] that the authenticity of the Taskira was not established. The judge correctly self-directs as to the assessment of reliability of documentary evidence at [44].

8. The judge notes at [63] that the appellant demonstrates a maturity which is inconsistent with his claimed age. The judge also finds contrary the appellant's claim to have no contact with his family in light of his claimed contact with his neighbour in his home village.
9. It is not necessary for the judge to go so far as to call the appellant a liar. The decision does more than enough to explain to the appellant why the evidence that he has provided falls short of establishing to the low standard that he is at risk on the basis of his claimed minority.
10. The judge was entitled to conclude the appellant was not at risk of being killed as he claimed. Firstly, and contrary to Mr Burrett's submission, the judge recognises the evidence that the appellant's father was a mujahedin commander, but points out that his death was many years ago. Mr Burrett relied on the letter writers' use of the term martyrdom, and the familial connection, as sufficient to show that the deaths were as a result of the appellant's father's political opinion. However, the judge was plainly aware of the use of the term martyrdom as he sets it out at [52]. The judge points out the letter provides scant detail, (in common with the letter from the Mujahidin Council) it fails to identify the appellant, his date of birth, or relationship to the deceased, but particularly makes no mention of the involvement of the police as the appellant had described, nor does it set out that any assessment that the appellant would be at risk on return. Mr Burrett's submissions overstates the evidence brought forward on behalf of the appellant so as to imply a determinative quality and give rise to an inference of perversity.
11. There was correct self-direction, and ample evidence before the judge entitling him to reach his conclusions. The reasons more than adequately explain to the appellant why he lost.

### **Decision**

12. The decision of the First-tier Tribunal dismissing the appeal reveals no error of law and stands.
13. Signed E M Davidge



Date 23 July 2018

Deputy Upper Tribunal Judge Davidge