



IAC-AH-CJ-V1

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

Appeal Number: PA/11784/2017

**THE IMMIGRATION ACTS**

Heard at Bradford  
On 9 July 2018

Decision & Reasons Promulgated  
On 14 August 2018

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**ESMAEIL [A]  
(NO ANONYMITY DIRECTION)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Hussain, instructed by Parker Rhodes Hickmotts, Solicitors  
For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Esmail [A], was born on 2 December 1994 and is a citizen of Iran. He arrived in the United Kingdom on 16 August 2016 and claimed asylum. By a decision dated 31 October 2017, the Secretary of State refused the appellant's international protection. He appealed to the First-tier Tribunal (Judge Dearden) which, in a decision promulgated on 20 December 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Mr Hussain, who appeared for the appellant, explained that there are four aspects to the appeal. First, the appellant challenges the treatment by Judge Dearden of the evidence of a witness (Mr Shaghuti) who gave evidence before the First-tier Tribunal. Judge Dearden wrote:

Mr Shaghuti was obviously an official of the Ahwazi Democratic Front and stood in for the chairman Mr Mahmoud Ahman Alahwazi who is evidently away in Tunisia. I concluded that Mr Shaghuti knew little or nothing about the appellant but was merely advocating what Mr Alahwazi had told him to say. I observe that no application to adjourn had been made in order to adduce the evidence of Mr Alahwazi. The evidence of Mr Shaghuti was distinctly vague as to what enquiries were made in Iran to ascertain whether someone is a member or supporter of the Ahwazi Democratic Front. The appellant is said to be an "active member" of the ADF in the United Kingdom since he arrived but as far as I could tell all he does is watch the television and report on what he has seen to other members of the media committee in London. On a similar basis he is described as a "active person" against the Iranian regime in Iran when in fact all he did was anonymously distribute leaflets and write graffiti. I formed the view that the evidence of Mr Shaghuti was rather overstated and evidently second hand. I have therefore decided to place limited weight on it.

3. Mr Hussain submitted that the judge had overlooked the fact that the appellant was an active member and would be at risk on return to Iran. Mr Shaghuti's evidence was necessarily second hand since he was resident in the United Kingdom.
4. I find that the judge's treatment of the witness's evidence is legally sound. It was open to the judge to characterise the evidence as "distinctly vague" and to find that Mr Shaghuti knew little personally of the appellant or his involvement in the organisation. Further, the paragraph contains important and sound findings by the judge, namely that the appellant was, in effect, a "invisible" supporter (if a supporter at all) of the ADF, a fact which was highly relevant to risk on return to Iran. Given the appellant's activities in Iran had been carried out anonymously and in light of the fact that his *sur place* activities in the United Kingdom were (as the judge observed) essentially passive, it was open to the judge to find that he would have no profile at all with the Iranian authorities which might provoke suspicion. There was no cogent evidence before the Tribunal to suggest that the mere fact that the appellant had been living in the United Kingdom would, absent any other factors, expose him to real risk.
5. Mr Hussain went on to criticise Judge Dearden's use of language at [35]. Here, the judge had written that there were "large swathes of the appellant's evidence which I did not believe". Mr Hussain argued that the judge should have specified exactly what he did not believe in the appellant's account. I disagree. It is completely clear from the context of the decision read as a whole what parts of the appellant's evidence were not accepted by the judge. I reject the submission that [35] is a "standard paragraph" plucked from some template. Judge Dearden has carried out a detailed and thorough analysis of the appellant's evidence.
6. Thirdly, Mr Hussain challenged the judge's findings at [34(1)]. The judge noted that at question 35 of the asylum interview, the appellant was asked when he had become

politically active in Iran. He said that he believed he had started to be politically active at the age of 15. As the judge notes, this would place the start of his activism around December 2009. However, later in the interview, the appellant said that he was politically active from 2015, when he would have been 21 years old. Mr Hussain complained that the judge had confused two different issues: the date upon which the appellant had taken an interest in separatist politics and when he had actually become politically active. I disagree. The appellant's response at [35] states that "the little child in our area knows about these facts and started talking about it but I believe at the age of 15 *I started to get involved*" [my emphasis]. I understand "getting involved" to be effectively synonymous with being active. When the question was repeated to the appellant albeit in different words ("What political activities were you involved in in Iran?" - question 39) the appellant said that he had started those activities in 2015. Since the activities described appear to be the only activities in which the appellant had been involved in Iran on behalf of the organisation, I find that Judge Dearden was entitled to identify a discrepancy in the evidence.

7. The appellant has a tattoo which he claims shows his allegiance to the Ahwazi Democratic Front (ADF). The tattoo has "some Arab writing on it and the words 1925 and a star contained within a circle". (Decision, [34(9)]). The judge observed that "its origin or provenance is completely unknown and there was no evidence given as to what the meaning was of the other three insignia displayed. Whilst the appellant would have me that 1925 is the date when Ahwazis were first persecuted by the Iranian government there was no cogent or persuasive objective documentary evidence produced to me by Miss Patel [Counsel for the appellant before the First-tier Tribunal] to show me that this was the case. I have consequently decided to place limited weight on the tattoo on the appellant's left arm." I find that those were findings available to the judge on the evidence. The appellant has failed to discharge the burden of proving that the tattoo is what he says it is and carries the meaning which he claims that it carries which, in turn, he claims could expose the appellant to risk on return.
8. Finally, as an ethnic Ahwazi returning from the United Kingdom as a failed asylum seeker, the appellant claims that he would face risk *per se* and irrespective of any political activity in either Iran or the United Kingdom of which the Iranian authorities might be aware. Mr Hussain submitted that the judge's analysis was incomplete or inadequate. Judge Dearden relied on *BA Iran* [2011] UKUT 36 at [42]. He correctly observed that only a leader, mobiliser or someone with a significant political profile in separatist politics is likely to face a real risk on return. Given the judge's credibility findings, the appellant did not fall into any of those categories. As I have noted above, even if he had been active, his activities both in Iran and in the United Kingdom are completely unknown to the Iranian authorities. Judge Dearden was also entitled to find that, if the only risk factor to which the appellant could point was that he was a returned failed asylum seeker from the United Kingdom, then existing country guidance indicates that that was not enough to expose him to a real risk.
9. In the circumstances, the appeal is dismissed.

**Notice of Decision**

This appeal is dismissed.

No anonymity direction is made.

Signed

Date 2 August 2018

Upper Tribunal Judge Lane

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

Signed

Date 2 August 2018

Upper Tribunal Judge Lane