



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

Appeal Number: PA/02216/2018

THE IMMIGRATION ACTS

Heard at Bradford

On 4 December 2018

**Decision & Reasons
Promulgated
On 21 February 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**HA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Holmes, instructed by Morgan Dias, Immigration Consultants

For the Respondent: Mrs R Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, HA, is a male citizen of Iran who was born in 1998. He claims to have arrived in the United Kingdom in December 2015 clandestinely. He claimed asylum in December 2015. By a decision dated 2 February 2018, the Secretary of State refused the appellant international protection. The appellant appealed against that decision to the First-tier Tribunal (Judge Turnock) which, in a decision promulgated on 5 April 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are three grounds of appeal. First, the appellant claims that the judge failed to take account of his youth before reaching adverse credibility findings. At [49], the judge observed that the appellant had not claimed asylum whilst in France. He notes that the appellant claims that his failure to do so was because he was under the control of an agent. The judge did not “find it credible that the appellant would have been told by the agent to remain in accommodation in France” and prevented him from claiming asylum in that country. That is also not consistent with his claim that he was “hit with gas” in France. The judge found that the appellant’s failure to claim asylum in France engaged the provisions of Section 8(4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and that his “credibility is, accordingly, damaged”. The appellant submits that the judge should have had regard to the fact that he could not break free from the control of the agent given his youth whilst passing through France to the United Kingdom. It was also relevant that the appellant was a minor at the relevant time and would not have been in a position to claim asylum.
3. I reject that submission. In this case, the judge has sought a reason from the appellant for his failure to claim asylum whilst in France and has been given an explanation which he has recorded. That explanation was not that he was too young to know how to claim asylum, but rather that he was forced to remain indoors by the agent. That evidence was directly contradicted by the appellant’s own evidence that he had in a public place been “hit with gas” whilst in France. I find that it was open to the judge to identify an inconsistency in the appellant’s evidence and to reject his explanation for not claiming asylum in France. Having rejected that explanation, it was open to the judge to make a finding in respect of Section 8.
4. Secondly, the appellant claims that the judge attached too much weight to his initial screening interview. Again, the appellant’s young age is pleaded in support. Mr Holmes, who appeared before the First-tier Tribunal, had submitted that the interview was unlawful and that its content should be ignored because the appellant had not been accompanied by a responsible adult at the screening interview. The judge considered that submission [46] but concluded that whilst he would not reject entirely the content of the screening interview, its content should be “viewed with caution”. At [62] the judge noted that the appellant had failed to mention at the screening interview crucial aspects of his account. The judge proceeded to regard the omission as “surprising” although he does not say in terms that the omission has diminished the appellant’s credibility as a witness. Moreover, the judge again states at [62] that he was aware that the appellant had not been accompanied at the screening interview by a responsible adult. I find that the judge’s approach was careful and even-handed. He was obliged to take into account the absence of an adult at the interview and also the appellant’s young age, and I find that is exactly what Judge Turnock has done in this instance.

5. The third ground of appeal challenges the judge on his findings of fact. At [64] the judge commented that there was “no explanation how the appellant’s father was able to raise the money to pay for an agent particularly in light of the appellant’s evidence that his father was not a wealthy man”. The grounds of appeal assert that there was no evidence at all before the judge to show that the appellant’s father was not “a wealthy man”. Further, it was procedurally unfair to hold this against the appellant when the matter had not been put to him at the hearing. There was a further allegation that the judge had questioned why the appellant’s partner’s family had not involved the authorities following the discovery of the appellant’s relationship with Lano from the outset.
6. I find that none of these submissions have merit. The appellant has, so far as I can see from the written evidence, not claimed that his father was a wealthy man, nor has he sought to address at all the question of how his father obtained funds to send the appellant to the United Kingdom. The appellant has not sought disclosure of the judge’s notes of evidence, nor indeed have the notes of Mr Holmes been put forward. I was not asked by either advocate to consider the notes of evidence on the file. Given the absence of any obvious evidence regarding the wealth or otherwise of the appellant’s father, I still find the judge’s observation pertinent. In any event, I find that the judge’s observation regarding the appellant’s journey to the United Kingdom and who paid for it are discrete and in no way affect his other clear and cogent findings regarding the appellant’s lack of credibility as a witness. I am not satisfied that, even if the judge is wrong in what he says at [62], that should entitle the appellant to a setting aside of all the findings made by the judge, some of which have not been challenged, or entitle him to a rehearing of the evidence. Ultimately, I am satisfied that the judge has had proper regard to all the relevant evidence and he has not considered evidence which was not relevant. He has given clear and cogent reasons for making findings which, in my opinion, were plainly available to him on the evidence. I see no reason for his analysis to be set aside and the exercise repeated.

Notice of Decision

7. This appeal is dismissed.
8. An anonymity direction is made.

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 his 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 2 February 2019

Upper Tribunal Judge Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 2 February 2019

Upper Tribunal Judge Lane