



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04618/2019

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre
On 17 October 2019

Decision & Reasons Promulgated
On 13 November 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

M H A R
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Johnrose, Broudie, Jackson & Canter (Dale House)
For the Respondent: Mr C Bates, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Iran born on 23 March 1994. He arrived in the UK on 7 September 2018 and claimed asylum the same day. This application was refused in a decision dated 10 May 2019. The Appellant appealed against that decision and his appeal came before Judge of the First-tier Tribunal A.J. Parker for hearing on 9 July

2019. In a decision and reasons promulgated on 12 July 2019 the judge dismissed the appeal.

2. Permission to appeal was sought, in time, on the basis primarily that the judge had failed to give anxious scrutiny to the Appellant's case and had conflated the evidence of the Appellant with that of a different Appellant. At [8] when referring to the documents before him, the judge referred to different documents from those that were before him so, for example, there was no screening or asylum interviews within the Respondent's bundle but rather these were in the Appellant's bundle and those documents were of a different length from those referred to by the judge. The judge concluded at [33] that the Appellant was from Iraq not Iran and then considered the issue of internal relocation and whether the Appellant was able to obtain a CSID card. The judge referred to a different representative from the one that appeared before him, at [39] he made reference to other aspects which were not related to the Appellant's claim, for example, a fear arising from an arranged marriage of a sister and it was submitted that all of this served to seriously undermine the safety of the Appellant's claim.
3. Permission to appeal was granted by Judge of the First-tier Tribunal O'Brien in a decision dated 12 August 2019, on the basis that it is reasonably arguable that the judge took into account matters which relate to another case, or at least are not founded on any evidence in this Appellant's appeal. All the grounds are arguable.

Hearing

4. At the hearing before the Upper Tribunal, Mr Bates on behalf of the Respondent accepted that he was unable to explain where the judge obtained some of the references in the decision and reasons and the reference, for example, to different representatives, the wrong number of pages and the whereabouts of material documents such as the screening interview and the asylum interview. Thus he accepted it appeared that the information upon which the judge determined the Appellant's appeal had indeed been contaminated by another and different case. In the interests of fairness it was difficult for him to argue that the judge had given the appeal anxious scrutiny.

Decision and reasons

5. In light of Mr Bates' helpful concession, which I consider was properly made, I find the judge did err materially in law in that somehow it seems that documents and information from another case had been erroneously placed in the file for this particular Appellant and had been considered alongside or indeed instead of the information upon which this Appellant's case was based. The effect of that is clearly the decision and reasons is unsafe. I set the decision and reasons aside and remit the appeal for a hearing *de novo* before the First-tier Tribunal, not to be heard by Judge of the First-tier Tribunal A.J. Parker.

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 *Rebecca Chapman*

Date 10 November 2019

Deputy Upper Tribunal Judge Chapman