



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

Appeal Number: PA/04969/2019

THE IMMIGRATION ACTS

Heard at Bradford

On 20th January 2020

**Decision & Reasons
Promulgated**

On 30th January 2020

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**K P A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel, instructed by Parker Rhodes Hickmotts
For the Respondent: Mr A McVeety, HOPO

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Hillis made following a hearing at Bradford on 3rd July 2019.

Background

2. The appellant is a citizen of Iran born on 1st January 1992. He arrived in the UK clandestinely on 28th October 2018 and claimed asylum the following day.
3. The appellant's case is that in early October 2018 he and his friend were taking some goods to Sardasht, delivering pomegranates in a pickup truck. They saw two people by the road whom they picked up to give them a lift. When they arrived it was discovered that one of the people had placed a gun amongst the fruit and he and his friend were accused of working for the KDPI. The appellant knew that that would cause them great difficulty and he decided to leave Iran.
4. The judge did not believe the appellant's story and dismissed the appeal.
5. The appellant sought permission to appeal on the grounds that the judge had erred in law in assessing the credibility of the appellant's claim.
6. Permission to appeal was initially refused but subsequently granted by Upper Tribunal Judge Kekic on 20th November 2019.

Submissions

7. Ms Patel argued that the judge had erred in holding it against the appellant that he had not disclosed the extent of his claim at the first opportunity, namely the screening interview. The appellant was informed before that interview that he was only going to be asked for a brief outline of why he was claiming asylum. He had said in that interview that the basis of his claim was

“Whilst travelling we assisted some people in getting to Sardasht who left a handgun inside the baskets of fruit we were selling. Some people had been arrested and if I return I do not know what will happen to me.”

8. At paragraph 48 of the determination the judge said that it was significant that the appellant did not mention anything about the KDPI at that stage. Ms Patel submitted that the appellant had in fact disclosed that aspect of his claim in the statement which accompanied the questionnaire which was completed shortly afterwards. It was not reasonable, given the advice that had been given at the start of the screening interview to expect him to give a full disclosure at that stage.
9. Second, the judge had speculated in not believing that the appellant would not have spoken with the two men and was wrong to say that it would have been entirely natural in any culture and in particular the Kurdish culture for them to chat and exchange names if there was no reason to distrust them.
10. Third, the judge was not entitled to find it not credible that the men the appellant suspected of being connected to the KDPI would speak Farsi in front of him. The appellant said that they did so because they did not

want him to understand what they were saying and in fact he could not understand them because although he had some elementary education in Farsi and could write the language, his spoken Farsi was limited.

11. She asked that the decision be set aside and reheard because the Immigration Judge's credibility findings were unsafe.
12. Mr McVeety defended the determination submitting that the judge was entitled to place weight upon the fact that the appellant had not disclosed any KDPI element in his claim at the screening interview and to disbelieve the appellant's account for the reasons which he gave.

Findings and Conclusions

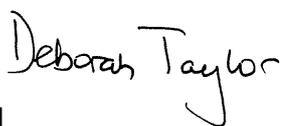
13. There is no error of law in this determination.
14. First, the whole basis of the appellant's claim is that he feared a return to Iran because he thought that he would be suspected of being a KDPI member. That is a very different claim to the one he put forward at the screening interview which was simply that he feared return because a handgun had been left inside the baskets of fruit he was selling and people had been arrested. The judge was entitled to place weight upon such a major omission and to take that into account in conjunction with the other adverse credibility findings which he made.
15. It was open to the judge to find it implausible that the passengers in the car would assume that speaking the national language of Farsi would mean that neither the appellant nor his friend could understand him. He was entitled to find it not credible that, given the appellant had been educated in Farsi and could read it, he would not to have been able to understand any of the conversation which the men in the pickup truck were having. Moreover, as Mr McVeety pointed out, the truck was travelling in a border area where smuggling was commonplace. It was the appellant's case that he had picked up two random strangers. It was not logical for there to be no conversation between him and his new passengers.
16. So far as the challenge to the judge's conclusions in relation to the Farsi language is concerned it is without merit. The point being made by the judge was that the passengers would have no way of knowing whether or not the appellant and his friend spoke Farsi.
17. The judge carefully considered all of the evidence and came to a reasonable conclusion based firmly on that evidence. The grounds disclose no error of law in that decision.

Decision

18. The original judge did not err in law. His decision stands. The appellant's appeal is dismissed.

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 27 January 2020

Deputy Upper Tribunal Judge Taylor