



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001503
First-tier Tribunal No PA/52200/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 12th of December 2023

Before

DEPUTY UT JUDGE FARRELLY

Between

AA
(anonymity order made)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms R. Evans of Jackson Lees Group Limited.
For the Respondent: Ms S McKenzie, Home Office Presenting Officer.

Heard at Field House on 21st August 2023

DECISION AND REASONS

Introduction

1. The appellant is a national of Iran of Kurdish ethnicity. He was born in May 2001.
2. He claims he and some friends talked about events in Iran and he agreed to store leaflets belonging to the KDP I in his shop. One of his friends were subsequently arrested and the appellant decided to leave in case he revealed details about him. He subsequently learned that the shop and his home were raided by the authorities and his family were presented with an arrest warrant for him.
3. He left Iran in April 2020 and travelled overland, entering the United Kingdom illegally in May 2020. He claimed protection on arrival. Since being in the United Kingdom he has engaged in demonstrations and posting on Facebook criticising the Iranian regime.
4. His claim was refused on 26 May 2022. It was accepted the Refugee Convention was engaged on the basis of political opinion and ethnicity. The respondent

accepted that he was a national of Iran and of Kurdish ethnicity. His account about hiding material for the KDPI was considered to be inconsistent and lacking in credibility. His account about his friends political allegiances was also considered to be lacking in credibility. The respondent concluded his activities here would not place him in danger.

The First-tier tribunal

5. The appeal was heard at Manchester before First-tier Tribunal Judge Beg on 1 March 2023. The appellant was represented by Ms Evans, as he is now. The respondent was represented by a presenting officer . The appeal was dismissed .
6. The judge did not find it credible that the appellant would take the risk of storing illegal material in the shop .The appellant had said the owner of the shop had suffered an accident resulting in the amputation of his leg and had been away from the shops the several months. The judge did not find it credible the owner would leave the appellant who had been engaged for two years to run a business.
7. Regarding his sur Plas activities, the judge did not find his account about his Facebook account credible. The appellant said he was illiterate and the judge concluded Facebook posts had been done by his friends. The posts were in English.
8. The judge concluded by finding the appellant had no political profile in Iran and was not wanted by the authorities there. His involvement with Facebook and attending demonstrations was at a very low level and the judge did not accept his claim that he made a speech at one demonstration. The appellant had said videos of his speech had been streamed but there was no evidence of this. The judge concluded that the appellant had no political profile.

The Upper Tribunal

9. Permission to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Lodato. The challenge related to the judges credibility assessment which was said to contain various factual mistakes. The judge had identified inconsistencies in the appellant's evidence, including the response at question 131 of his substantive interview. There, he said he had received KDPI leaflets once or twice, which the judge concluded contrasted with statements elsewhere that he had accepted deliveries on at least five or six occasions. In fact, at question 131 the appellant said `once or twice in a month'. The judge had also referred question 126 that there was an arrest warrant for him. The judge described this as an embellishment. However this was tempered by the answers to questions 126 and 131 where the appellant said he did not know if a warrant had been issued. It was also arguable the judge overlooked evidence about his involvement in recent protests in the United Kingdom.
10. At hearing Ms McKenzie accepted the argument that the credibility findings were unsafe. She suggested that the decision be set aside and the appeal remitted for a de novo hearing.
11. Having regard to the arguments advanced in the grounds and the acceptance of error by Ms McKenzie the decision of First-tier Tribunal Judge Beg should be set aside in the appeal remitted to the first-tier Tribunal for a de novo hearing.

Decision.

The decision of First-tier Tribunal Judge Beg materially errs in law and is set aside. The appeal is to be relisted for a de novo hearing in the First-tier Tribunal.

Francis J Farrelly
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber