



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/03872/2013

THE IMMIGRATION ACTS

Heard at Field House
On 11th October 2013

Determination Sent
On 24th October 2013

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

MAJID AMOU RAMEZAN-ZADEH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Froom of Counsel, instructed by Chambers Solicitors
(Bradford)
For the Respondent: Mr S Spence, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is the Appellant's appeal against the decision of Judge Hillis made following a hearing at Bradford on 22nd May 2013.

Background

2. The Appellant is a citizen of Iran born on 23rd September 1987. He arrived in the UK clandestinely on 26th November 2012 and claimed asylum. His application was refused on 4th April 2013.
3. The Appellant claimed that he would be at risk on return to Iran because, in 2007, a friend of his brother's, a colonel in the Revolutionary Guards, got him a job doing building maintenance at Kasahan University. Whilst working there he would talk to two of his colleagues about nuclear energy and the merits of the current government. Thereafter he met a student, the sister of his brother's friend, and they began a relationship. Her brother was a colonel in the Revolutionary Guard. He was warned by the security department of the university not to see her but they continued to meet. In January 2008 he was arrested. He was not sure why but he thought it was either because he had been talking about politics at work or because he had continued to see his girlfriend. He was taken to an unknown place and detained and beaten so badly that he lost the sight in his right eye. He remained in hospital for three weeks and was dismissed from his job. He never saw his girlfriend again and was not arrested or detained again during the subsequent three years before he left Iran.
4. He left Iran because he is being sought by the Iranian authorities as a consequence of the political activity of his employer.
5. The judge dismissed the Appellant's appeal, finding him not credible. He did not accept that the Appellant had had a relationship as claimed, nor that he had had inappropriate conversations at work. He made no findings in respect of the risk in respect of the Appellant's employer.

The Grounds of Application

6. The Appellant sought permission on two grounds. Firstly that the judge had erred in law in assuming that the Appellant would have acted as a reasonable man would be expected to act, which is the incorrect test, in his assessment of the credibility. Secondly, the judge had failed to make any findings at all about the trigger event which led the Appellant to leave Iran, namely the claim that he had come to the adverse attentions of the authorities due to the action of his employer.
7. Permission to appeal was granted by Judge Hodgkinson in relation to the second ground but he granted permission on both.
8. On 22nd August 2013 the Respondent served a reply defending the determination.

Submissions

9. Mr Froom relied on his grounds. Mr Spence acknowledged the defect in the determination with respect to ground 2 but submitted that otherwise the credibility findings were sustainable.

Consideration of Whether there is an Error of Law

10. The judge stated that he inferred that the Appellant would be well aware of the potential difficulties he could cause for himself in Iran by idle criticisms about the nuclear programme there or the regime in general. He did not find it credible that the Appellant would pass any adverse comments about the Iranian government with work colleagues.
11. Had that been the only reason for the judge rejecting the claim, then the criticisms in the grounds might have had more force. However, no challenge is made in the grounds to the judge's primary findings in relation to the girlfriend, nor to his assessment of the medical evidence. On his own account the arrest did not take place until eight months after the conversation was supposed to have taken place. Furthermore the Appellant did not leave Iran for a further three years after the claimed conversation with colleagues. There is no error in the judge's findings.
12. However, clearly, the fact that the judge failed to make any finding on the event which is said to have led to the Appellant's departure from Iran is a clear error of law and to that extent the decision is set aside.

Further evidence

13. I heard oral evidence from the Appellant who adopted his original statement to stand as his evidence-in-chief. Mr Spence asked him about his employer, Hamid. He said they had been class mates towards the last two years of high school between the ages of 16 and 18. The Appellant then got a job with the university but after he was dismissed he did not work for four years, staying with his mother. He had mental health issues as a consequence of the detention.
14. The Appellant said that by chance he met his old friend who offered him work. He started to work alongside him and was paid roughly 300,000 tomans every week or two. They worked together for two months before Hamid suggested that they register a company together so that they could bid for bigger projects. He gave Hamid all of his documents to register the company and Hamid was then arrested. He feared returning to Iran because there was no way that he could prove that he was not involved in Hamid's political activities.

Further Submissions

15. Mr Spence relied on the reasons for refusal letter and submitted that there was no reasonable degree of likelihood that the Appellant would be persecuted upon return to Iran.
16. Mr From submitted that the Appellant had not embellished his account in any way. If anything he had underplayed his claim of risk and the logical conclusion was that he was telling the truth. If credible he would be at risk.

Findings and Conclusions

17. The starting point for the assessment of this aspect of the Appellant's claim is the credibility findings of Judge Hillis.
18. I do not accept that the Appellant's school friend would offer to set up a company with him. He had not worked for four years and had only been reunited with his friend for a couple of months. It is not at all clear what benefit the Appellant would bring to the enterprise.
19. In any event, on the Appellant's own evidence, he himself has never carried out any political activities nor has he attended any of the demonstrations which took place in Iran during the period before he left. There would therefore be no reason for the authorities to link him with the employer's political views. Indeed, the Appellant's account is that he did not know that his friend had been a political activist which demonstrates the lack of closeness in the relationship.
20. There is no real possibility that the Appellant is of any interest to the Iranian authorities.

Decision

21. The original judge erred in law and his decision is set aside. It is remade as follows. The Appellant's appeal is dismissed.

Signed

Date

Upper Tribunal Judge Taylor