**Upper Tribunal**
**(Immigration and Asylum Chamber)Appeal Number: PA/09501/2019 (V)**

**THE IMMIGRATION ACTS**

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| **Heard at Cardiff Civil Justice Centre** | **Decision & Reasons Promulgated** |
| **Working remotely by Skype** | **On 03 June 2021** |
| **On 20 May 2021** | |

**Before**

**UPPER TRIBUNAL JUDGE GRUBB**

**Between**

**AK**
**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Ms A Mugal of AMB Advocates Limited
For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

**DECISION AND REASONS**

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to contempt of court proceedings.

## Introduction

The appellant is a citizen of Iran who was born on 23 June 1995. He arrived in the United Kingdom on 10 October 2018 and claimed asylum on the basis of his political activities in Iran.

On 17 September 2019, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the European Convention on Human Rights.

The appellant appealed to the First-tier Tribunal. In a determination sent on 5 December 2019, Judge Cockburn dismissed the appellant's appeal on all grounds. In particular, in relation to his international protection claim, the judge did not accept the credibility of the appellant's account and that he would be at risk on return to Iran as a result of his political activities.

The appellant sought permission to appeal to the Upper Tribunal challenging the judge's adverse conclusion, in particular her adverse credibility assessment. On 11 February 2020, the First-tier Tribunal (Judge Shimmin) granted the appellant permission to appeal.

Following directions sent by the Upper Tribunal on 30 April 2020, both the appellant and Secretary of State filed short skeleton arguments.

The appeal was listed at the Cardiff Civil Justice Centre on 20 May 2021 for a remote hearing by Skype. The appellant was represented by Ms Mugal and the respondent by Mr Bates, both of whom joined the hearing remotely.

## The Appellant's Claim

The appellant's claim is that he was politically active in Iran. He claims that he attended, and helped organise, a seminar at Hormozgan University in December 2016 as a member of a university group called Anjaman-e-Islamiai. At that seminar, a prominent Iranian philosopher and theologian, Mr Mohammed Motjahed Shabestari spoke on subjects concerning Islam and human rights and criticised aspects of the Iranian government. Following the seminar, the appellant claims that he was contacted by officials from Etallat and told to come to their offices. He initially declined but subsequently he attended. He was asked to sign a document promising to cease all political activity but he refused to do so. He claims that he was then released as a result of intervention by the University Chancellor or because students at the university were threatening to riot in protest at his detention.

The appellant next claims that in November 2017 he attended a demonstration at Hormozgan University against the Iranian regime. The authorities intervened and one of his friends was arrested but he ran away and, as far as he knows, he was not identified by the authorities.

Finally the appellant claims that in August 2018 he attended a demonstration against the regime which the authorities attempted to break up and during that he was grabbed by someone whom he believes to be an Etallat official when he

dropped his wallet which the official took. The appellant ran away and went back to his parents' house where he lived. Around ten days later, his father (who was a retired policeman) told him that he was known by the authorities and he was in trouble. The appellant then left and, he claims, the Etallat visited his family home after he had left and seized his laptop. His father was questioned by the Etallat and a cousin was initially arrested and detained, but subsequently released, because it was accepted that he was not the appellant despite having a similar physical appearance to him.

## The Grounds of Appeal

In the grounds of appeal, subsequent written submissions and oral submissions made by Ms Mugal at the hearing, the appellant essentially relies upon four grounds.

First, it is submitted that the judge at paras 23 – 24 of her determination wrongly took into account and criticised the appellant for not providing supporting evidence from his family. In particular, it is said that had the appellant provided such evidence then the judge would simply have seen it as "self-serving" and not attached any weight to it (Ground 1).

Secondly, at para 25 the judge failed properly to consider the documents submitted in support of the appellant's claim, in particular in relation to his account of the seminar in December 2016. In the grounds, it is submitted that at page 3 of the appellant's bundle is a document relating to the actual audio recording of the lecture which he attended at the university. The judge failed to take this document into account. Further, at pages 4 – 5 of the appellant's bundle, there are supporting documents concerning the lecturer Mr Shabestari illustrating that he is known for giving anti-government lectures (Ground 2).

Thirdly, at para 27 the judge simply accepted the respondent's reasons for disbelieving the appellant and failed to give any reasons of her own (Ground 3).

Fourthly, at paras 28 – 29, the judge failed to give adequate reasons why she doubted the appellant's account on the basis that it was vague (Ground 4).

## Discussion

*Ground 1*

This ground relates to paras 23 – 24 of the judge's determination in which she took into account the absence of supporting evidence from family members. At paras 23 – 24, the judge said this:

> "23. The first issue that causes some difficulty for the appellant is corroboration. I have considered the fact that it can be difficult if not impossible for some asylum claimants fleeing their country of origin to obtain evidence to support the subjective aspects of their claim, either before or after they leave. Therefore, I do not place undue weight upon this factor per se. However, in the appellant's case his evidence is that he is still in touch with his family in Iran and there are therefore potential witnesses to his claim.

> 24. In his asylum interview on 12 July 2019 the appellant said he last spoke to his family in Iran (parents, one sister and brother) [ ] the week before the interview [AIR 4]. No explanation has been given as to why members of the appellant's family have not provided statements to back up his account, particularly as it is claimed that the appellant's father and cousin were both questioned and briefly detained by Etallat. Furthermore, the appellant has two aunts and two uncles and cousins living in the UK, he lives with his maternal uncle, yet, none of the appellant's family members have been called to give evidence. While I acknowledge that it is likely none of these UK-based relatives would have been first-hand witnesses to the incidents in Iran, it is odd that none of them were able to give evidence on their knowledge of any of the events and how and why they found out the appellant was coming to the UK. As the appellant is living with his family in the UK it is not plausible, absent a clear explanation, that this UK-based family were not in touch with their family in Iran. This unexplained omission is simply one factor I have taken into account in considering the appellant's credibility in the round."

In response to Ms Mugal's submissions, Mr Bates submitted that the judge had accepted that the absence of this supporting evidence was something to which she gave "limited weight". In any event, Mr Bates submitted that the judge was doing no more than following the approach of the Court of Appeal in TK (Burundi) v SSHD [2009] EWCA Civ 40. The judge found that the appellant was in touch, through his family in the UK, with his family in Iran and his father and cousin in Iran were, on his account, directly contacted and detained by the Etallat.

It is not said by the appellant that the judge erroneously required corroboration of his claim. Plainly, although the judge used that word in para 23 of her determination, that was not the substance of the points she was making in paras 23 – 24.

In TK (Burundi) the Court of Appeal recognised that, in assessing the credibility of an asylum claimant, absence of independent supporting evidence from individuals whom it was reasonable to expect to provide supporting evidence, was a relevant factor in assessing credibility. Thomas LJ (as he then was) (with whom Moore-Bick and Waller LJJ agreed) said this at [20] – [21]:

> "20. The importance of the evidence that emerged in this Court is to demonstrate how important it is in cases of this kind for independent supporting evidence to be provided where it would ordinarily be available; that where there is no credible explanation for the failure to produce that supporting evidence it can be a very strong pointer that the account being given is not credible. It is clear in the circumstances of this case that the Judge was in fact right to disbelieve the appellant. If the appellant had asked the mother of his second child, Ms Ndagire to give evidence, the truth about her immigration status would have emerged and his claim to base an entitlement to family life on his relationship with her and the child by her would have failed. That that was the inevitable consequence was made clear by the fact that his counsel accepted before us that he could no longer rely upon the

> relationship with Ms Ndagire and her daughter and the sole ground on which an Article 8 claim could be advanced was the relationship to his daughter by his first partner.
>
> 21. The circumstances of this case in my view demonstrate that independent supporting evidence which is available from persons subject to this jurisdiction be provided wherever possible and the need for an Immigration Judge to adopt a cautious approach to the evidence of an appellant where independent supporting evidence, as it was in this case, is readily available within this jurisdiction, but not provided. It follows that where a Judge in assessing credibility relies on the fact that there is no independent supporting evidence where there should be supporting evidence and there is no credible account for its absence commits no error of law when he relies on that fact for rejecting the account of an appellant."

The judge found that he appellant had family in the UK and they were in contact with his family in Iran, where his father and cousin still lived. There was no plausible explanation why no evidence from family members was produced. In my judgment, the judge was entitled to take into account the absence of supporting evidence from family members, particularly those who could give direct evidence of the events which the appellant claimed had occurred in Iran, in assessing whether the appellant had established his claim to the required standard, albeit the lower standard, applicable in international protection claims.

I do not accept Ms Mughal's submission that the judge would have rejected the evidence as self-serving. It would have been wrong for the judge simply to discard such evidence, as Ms Mugal submitted she would have done, as being self-serving. As the Upper Tribunal made plain in R (SS) v SSHD ("self-serving" statements) [2017] UKUT 164 (IAC) as set out in para (2) of the judicial headnote:

> "Whilst a statement from a family member is capable of lending weight to a claim, the issue will be whether, looked at in the round, it does so in the particular case in question. Such a statement may, for instance, be incapable of saving a claim which, in all other respects, lacks credibility."

As the Upper Tribunal pointed out, the expression "self-serving" adds "little or nothing". Indeed, it is relatively unusual for a litigant to rely on evidence which is not supportive of their claim and, in that sense, is self-serving.

Applying the approach in TK (Burundi), the judge was entitled to take into account the absence of this supporting evidence which she would not, properly directing herself, have simply discarded as being self-serving had it been submitted. For these reasons, I reject Ground 1.

*Ground 2*

Ground 2 criticises the judge's consideration in para 25 of her determination of the supporting evidence in the appellant's bundle. There, the judge said this:

> "The appellant has tried to corroborate the happening of the seminar in December 2016 through internet documents at pages 3 to 5 of his bundle. However, the first document concerns an event on 'Monday, February 27', year unknown, and the documents on pages 4 and 5 concern articles written on 6 October and November 2019 respectively. There are no documents before the Tribunal which evidence the December 2016 seminar. No explanation has been provided as to why such evidence has not been provided, either through similar internet printouts, literature from the University, or witness evidence from anyone involved. Why did the appellant not contact the chief organiser of the seminar (AS) or the chancellor of the University who it is claimed intervened to secure the appellant's release from Etallat, or the speaker Motjahed Shabestari himself?"

In the grounds, it is contended that the document at page 3 of the appellant's bundle relates to the seminar which the appellant claimed he helped organise in December 2016 and had attached to it an audio file of that lecture. During the course of the hearing, I raised with Ms Mugal the fact that this document refers to a lecture, albeit given by the claimed speaker, on "Monday, February 27" as indeed the judge noted in para 25 of her determination. Ms Mugal accepted that this document did not, as the grounds contend, relate to the lecture which the appellant claimed he had organised in December 2016. Instead, she submitted, along with the documents at pages 4 to 5, that the judge had failed to take these documents into account as being supportive at least of the speaker's involvement in anti-government lectures. In fact, there are no documents directly supporting the appellant's claim that he was involved in the organisation of a seminar in December 2016. The document at page 3 relates to a different event on "Monday, February 27" although the precise year is not disclosed in the document.

The difficulty with Ms Mugal's submission that the judge failed to take into account that document and the documents at pages 4 and 5 of the bundle, which do refer to the claimed speaker and his involvement in talks and lectures which were anti-government, is that the judge does refer to them explicitly in para 15 of her determination where she refers to "online articles concerning Mojtahed Shabestari speaking at Hormozgan". Further, in para 25 of her determination she also specifically refers to the documents at pages 4 and 5. It is simply not arguable that the judge failed to take these documents into account. None of these documents directly related to the event which the appellant relied upon in December 2016 as being the beginning of his problems with the Iranian authorities. The judge correctly noted in para 25 that there were "no documents" which evidence the December 2016 seminar.

Further, despite having been able to obtain internet documents relating to a lecture given by the claimed speaker and other documents about the claimed speaker, the judge noted in para 25 that there was no supporting evidence that had been provided for the December 2016 seminar either from internet printouts or from the main organiser of the seminar, the Chancellor of the university or the speaker himself. Ms Mugal did not specifically seek to challenge that aspect of the judge's reasoning in para 25 which, in truth, again

reflects a legitimate assessment of the evidence in the round following TK (Burundi). For these reasons, I reject Ground 2.

*Ground 3*

This ground relates to para 27 of the determination and states in bald terms that the judge simply adopted the position of the respondent without giving any reasons for not accepting that the appellant had established his involvement in the December 2016 seminar. Initially, in her oral submissions Ms Mugal made no reference to ground 3 but, when I raised that with her, she maintained that she continued to rely upon it.

Para 27 of the judge's determination is in the following terms:

> "Following on from this, I accept the respondent's position, as reinforced in submissions by Mr Graham that the appellant has not provided an adequate explanation as to why he was targeted over the December 2016 seminar and the speaker Mr Shabestari and the Chancellor of the University were not. Although I have considered the appellant's evidence that the Chancellor was texted by the authorities asking him to stop putting on seminars. Whilst the objective materials show the Iranian authorities do target political dissidents with varying profiles, including relatively low-level profiles, it does not ring true that an administrative organiser such as the appellant would be detained and threatened whereas the speaker protagonist or the Chancellor would largely be left alone, particularly where the University endorsed the seminar. There is no evidence to demonstrate that the Iranian authorities deliberately target lower level dissidents *instead of* those with real political influence in relation to the same matter. The position is illogical and more importantly, it is unsubstantiated by the appellant's evidence. I cannot find that this aspect of the claim is reasonably likely, and this is exacerbated by the lack of any cogent witness or other evidence to show that the seminar and subsequent events took place. Whilst it is possible that Mr Shabestari spoke at a seminar in December 2016, and that the appellant might have had a hand in its administrative organisation, for the reasons I set out above I cannot find that the appellant came to the adverse interest of the authorities. I note that the December 2016 seminar is not the reason the appellant left Iran, but it does go to the Iranian authorities' perception of his political views and profile."

As I pointed out to Ms Mugal during her submissions, Ground 3 contends that the judge failed to give *any* independent reasons for her adverse finding in relation to the appellant's claimed involvement in the December 2016 seminar. It is not a ground that contends that reasons were given but that those reasons were perverse or irrational. On any reading of para 27, the judge plainly gave a number of reasons for her adverse finding including that it was illogical or implausible that the appellant would be targeted whilst the other organisers and university chancellor were not in any substantial way. Further, there was an absence of supporting evidence as to the seminar ever having taken place

although the judge did accept that it was possible that it had but did not accept that the appellant had been involved or targeted as he has claimed.

As I have said, the judge's reasons for reaching that latter finding are not challenged in Ground 3 but rather it is contended that the judge gave no reasons, other than to endorse those of the respondent, for reaching that finding. In fact, the judge gave a clear reason in para 27 which, as Mr Bates submitted, is neither perverse nor irrational that led her to conclude that she did not accept that the appellant had been targeted as a result of any seminar that might have taken place given that others had been "largely … left alone". For these reasons, I reject Ground 3.

*Ground 4*

Ground 4 contends that in para 28 of the judge's determination she failed to give adequate reasons why she did not accept the appellant's claimed political involvement in Iran and consequent risk on return. There the judge said this:

> "28. The appellant claims that he attended demonstrations in November 2017 at the University and August 2018 in his hometown of Shiraz. I am prepared to accept that this might be the case because students in Iran do engage in demonstrations, however, I do not accept that events unfolded as described by the appellant in August 2018 which led him to leave Iran. Having had the benefit of listening to the appellant's oral evidence I have found it to be vague, lacking in detail and sometimes unclear. Throughout his written evidence and the oral evidence, the appellant was unable to demonstrate an adequate degree of political conviction and he was unconvincing as to why he would engage in any other claimed political activities. I have considered that it is possible to believe some aspects of an appellant's account while discounting others, but I find that overall, I cannot accept the material aspects of the appellant's core account, even to the lower standard. In summary, I reach this finding on the basis of several factors including vagueness and a lack of detail and clarity in the appellant's evidence, and illogicality and an absence of substantiation and reasonable corroboration on the particular facts of the case. Following on from this I have considered that the appellant has also failed to provide any evidence of his claimed social media activity concerning Iranian politics."

Reading para 28 fairly as a whole, it is clear that the judge was drawing together reasons that she had previously given for not accepting the appellant's account including the "illogicality" of the appellant alone being targeted following the December 2016 seminar which she had previously referred to in para 27. She also referred to the absence of supporting evidence which she referred to and relied on in paras 23 – 24 (in respect of the appellant's family) and at para 25 (in respect of internet evidence or other evidence from those involved in the claimed events in December 2016).

As Mr Bates submitted, the judge heard the appellant give oral evidence and was unpersuaded that he had shown a "degree of political conviction" which

was convincing such as to support his claimed engagement in political activity. At para 3 of his determination, the judge referred to the appellant's evidence as being that he is a follower of "Third Line Reformist Movement" which is a "school of thought as opposed to a political party". Whilst the judge does not spell out in detail why the appellant's evidence in relation to events was "vague", reading the judge's reasons overall I am satisfied that they were adequate and sufficient to allow the appellant to understand why the judge did not accept his claim and those reasons are properly and legally sustainable. The judge's determination must be read as a whole and not simply focussed on para 28.

It is also worth noting, and this is not challenged in the grounds, that the judge took into account that the appellant's political activity was said to have continued on the internet in the UK through social media activity over a period of six to seven years (see para 9(viii) of the determination). Yet, no evidence supporting that was produced by the appellant. The appellant made no reference to this activity in his written statement dated 5 November 2019. However, he did in his asylum interview which was dealt with by the respondent in para 35 of the decision letter where it was not accepted that the appellant would have no access to any of his social media activity because it was deleted after 24 hours as he claimed. The judge was entitled, in my judgment, to have regard to the absence of any supporting evidence of the appellant's claimed political activity on social media over a six to seven year period as one of a number of reasons why she was not satisfied that the appellant's claim had been established. For these reasons, I reject Ground 4.

Standing back and reading the judge's determination as a whole in a fair and reasonable way, I am satisfied that the judge properly took into account the relevant evidence and gave cogent and adequate reasons for rejecting the appellant's account that he would be at risk on return to Iran as a result of his claimed political activities between 2016 and 2018.

Consequently, the judge did not err in law in dismissing the appellant's appeal on asylum grounds or otherwise.

## Decision

For the above reasons, the decision of the First-tier Tribunal to dismiss the appellant's appeal did not involve the making of an error of law. That decision, therefore, stands.

Accordingly, the appellant's appeal to the Upper Tribunal is dismissed.

Signed

**Andrew Grubb**

Judge of the Upper Tribunal
24 May 2021

**TO THE RESPONDENT**
**FEE AWARD**

Judge Cockburn made no fee award. Given that I have upheld her decision to dismiss the appeal, and there is no challenge in any event to the fee award, her decision to make no fee award also stands.

Signed

**Andrew Grubb**

Judge of the Upper Tribunal
24 May 2021