



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

Appeal Number: AA/02786/2014

THE IMMIGRATION ACTS

**Heard at Manchester Piccadilly
On 27 May 2016**

**Decision & Reasons
Promulgated
On 13 July 2016**

Before

UPPER TRIBUNAL JUDGE STOREY

Between

**MR MAHMOUD ALIDADIAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

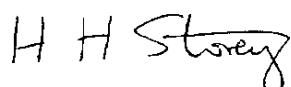
For the Appellant: Mr G Brown, Counsel

For the Respondent: Mr G Harrison, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Iran. He obtained permission by way of a "Cart" judicial review confined to the following ground only: "A failure to properly assess the risk upon return as an undocumented failed asylum seeker". Limited to this ground, the challenge is made to the decision of First-tier Tribunal (FtT) Judge Pickup sent on 29 September 2014 dismissing the appellant's appeal.

2. As outlined in the grounds and by Mr Brown in submissions, the thrust of ground 3 was that the judge had fallen in error firstly because he had failed to consider new country information and new Home Office guidance on return to Iran; and secondly because the Upper Tribunal and courts had made clear in a number of cases their concern that the existing country guidance in **SB (risk on return-illegal exit) Iran CG [2009] UKAIT 00053** and **BA (Demonstrators in Britain - risk on return) Iran CG [2011] UKUT 36 (IAC)** merited revisiting.
3. I am not persuaded that the judge erred in law. In the first place, it is important to note that the judge comprehensively disbelieved the appellant's account (para 61). That clearly included rejection of the appellant's claim to have left Iran illegally. The judge's consideration of the illegal exit issue was confined to a consideration in the alternative (para 46: "Even if he left Iran illegally..."). Secondly, given that the appellant only stood to be considered as a failed asylum seeker, the ground does not identify any body of country evidence before the FtT Judge demonstrating that the existing country guidance cases were no longer consistent with the background country information. The only more recent material identified in the ground was one specific provision of the Home Office Iran OGN v 8.0 October 2012, but that related only to conditions for those in detention. Third, the body of background materials before the judge cannot be said to comprise cogent evidence demonstrating that the existing country guidance on Iran relating to failed asylum seekers was invalid. Fourth, the grounds themselves make reference to more recent decisions of the European Court of Human Rights, e.g. **K.K. v. France app. no. 18913/11**, in which it was held that the situation in Iran was insufficiently serious to prevent all returns. Fifth, as regards the point that the Tribunal and the courts have expressed concern about the risk of harm on return to Iran from the UK as a failed asylum seeker irrespective of the credibility of the individual, such concerns have related to cases in which relevant updated background material was accepted as being in play. That was not the position in this appeal when it came before Judge Pickup in September 2014.
4. Mr Brown sought to argue that I should adjourn the hearing to await the decision of the Upper Tribunal in a pending country guidance case dealing, inter alia, with the issue of failed asylum seekers. However, I am obliged to confine myself to the question of whether the judge erred in law in September 2014, on the body of evidence before him. Applying the principles established in **SG (Iraq) [2012] EWCA Civ 940**, I am entirely satisfied the judge did not materially err in law and that in consequence his determination must stand.



Signed

Date: 13 July 2016

Dr H H Storey
Judge of the Upper Tribunal