IAC-AH-LEM-V1

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/05070/2013

THE IMMIGRATION ACTS

Heard at Bradford
On 8 October 2015

Decision & Reasons Promulgated
On 7 January 2016

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

KH
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms S Khan, instructed by Switalskis Solicitors
For the Respondent: Mr Diwncyz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, KH, was born in 1987 and is a male citizen of Iran. The appellant appealed against the decision of a respondent dated 10 May 2013 to remove him from the United Kingdom having refused his claim for asylum. The First-tier Tribunal (Judge Moore) in a determination promulgated on 15 July 2013, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are three grounds of appeal. The appellant claims to have been the co-editor of an anti-regime blog concerning Iran. His co-editor (ME), although living in the United Kingdom, did not provide a witness statement

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or attend the First-tier Tribunal hearing. The judge gave some weight to the failure of this possible witness to give evidence [35]. The appellant asserts that the judge failed to consider extracts from ME's Home Office interview (SEF) which confirmed that the appellant and ME had been involved with the same blog. Secondly, the judge accepted that the blog exists and that the appellant appears to be the co-author/editor [35]. However, the judge had failed to consider that finding against the background evidence which indicated that some bloggers are at risk in Iran. Thirdly, it is asserted that the judge did not make any reasoned finding as to whether the appellant had attended demonstrations in Iran.

3. As regards the appellant's alleged blogging activities, the judge deals with these at [35]:

> "From documents provided there would appear to be a blog in existence and despite the fact that some of these blog screen shots appear to show the appellant together with his friend ME as the editors and publishers of the blog, the voluntary absence of ME from this hearing and the lack of any witness statement from him either together with the lack of clarity as to the name of the blog and the specific blog address does not persuade me that this appellant had an association with the blog as he claimed. I would have expected the co-blogger to have at least provided a witness statement in support of the appellant's claim but he has not done so. I find the appellant's explanation with regard to the variation of the blog address to be convenient as opposed to any translation or any other similar error. Even as recently as the witness statement of the appellant he was unable to provide a correct blog address despite the fact that the witness statement had been read back to him in Farsi. I am also unclear as to what the blog was called. In his witness statement [the appellant] claimed that the blog was called 'Small Hands of Little Children' and that it was created in November 2012. In his interview (question 84) the appellant claimed that the blog was called 'A Small Hands of Street Children'. In his evidence at this hearing he called the blog 'Helping Working Kids.' Three different titles and whilst I accept there is some commonality between all three titles I would expect this appellant who had set up and was editor and publisher of the blog to be exact and particular with regard to the name of the blog and he was not."

4. The judge had made it clear elsewhere in his decision that he had considered the evidence of the appellant in the round and by reference to the totality of each and every item of evidence adduced. The judge has given a number of for finding that the appellant was not a credible witness. It was apparent from any reading of the decision that those findings have informed his view of the appellant's claimed blogging activities. In my opinion, the appellant has dealt head on, so to speak, with that evidence before him which seemed to show that the appellant and ME were co-editors and publishers of the blog. It was accepted by the Secretary of State that the blog may be considered by the Iranian authorities as anti-regime. However, I find that the judge has given adequate reasons for finding that, notwithstanding the presence of that evidence, the appellant did not "have an association with the blog as he has claimed." I consider it likely that the judge has had in mind relevant country guidance, in particular *BA (Demonstrators in Britain – risk on*

return) Iran CG [2011] UKUT 36 (IAC) in which the Upper Tribunal, noting the "inability of the Iranian government to monitor all returnees who have been involved in demonstrations" (Facebook is specifically mentioned), still makes a distinction between those who are leaders and mobilisers of anti-regime sentiment, whether it be demonstrations or on line or otherwise, and those who do not have a significant political profile and who may be described as "passive" rather than "active". In the present case, the judge's finding that as to the extent of the appellant's involvement in the anti-regime blog (which went no further at all than the existence of his name on a number of blog pages describing him as a co-editor) clearly indicates that the judge believed that the appellant did not have, as he claimed, a significant profile of which the Iranian authorities would be aware, but was rather that he is a "passive" individual who could demonstrate involvement in no activities which might attract the interest of the Iranian authorities. In that context, the judge's observation that the appellant was even unable to state consistently the name of the blog of which he claimed to be a co-editor was significant to his assessment of the appellant's political profile.

5. As regards the involvement of ME, given that he was resident in the United Kingdom and appeared to have been in a position to provide a witness statement and to attend the hearing, the judge's observations are valid. As regards ME's SEF interview, I have no reason to believe that the judge did not consider this document given that he has stated clearly that he considered all the evidence which had been put before him; there is no need for the judge to refer to each and every item of evidence in reaching his findings.

6. As regards the appellant's claim to have attended demonstrations, I find again that the judge has not erred in law in his analysis. The judge deals with and dismisses the appellant's account of having attended demonstrations at [33 – 34] and supports his findings with clear and cogent reasons.

7. The judge has written a detailed and well-reasoned decision although there are a number of unfortunate "template" errors in the decision; for example at [43] where he refers to the appellant as female and a citizen of Sri Lanka and not Iran. Such errors can indicate an absence of anxious scrutiny on the part of the judge but, in this particular case, I find that the judge is guilty only of poor proof reading; I do not find that the errors have infected his reasoning or rendered his conclusions untenable.

Notice of Decision

This 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 20 December 2015

Upper Tribunal Judge Clive Lane

I have dismissed the appeal and therefore there can be no fee award.

Signed Date 20 December 2015

Upper Tribunal Judge Clive Lane