



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

Appeal Number: AA/07861/2014
AA/07865/2014
AA/07866/2014
AA/07872/2014

THE IMMIGRATION ACTS

Heard at Bradford Phoenix House

**Decision &
Promulgated**

Reasons

On 11 April 2016

On 15 April 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**FARHAD MORID MOSHTAGH SEFAT
SAFEDEH RAVARI MORTAZAVI
REZA MORID MOSHTAGH
ALI MORID MOSHTAGH SEFAT
(NO ANONYMITY ORDER MADE)**

Appellants

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Hodson of Counsel

For the Respondent: Mrs Peterson a Home Office Presenting Officer

DECISION AND REASONS

Background

1. The Respondent notified the Appellants on 22 September 2014 of her decision to refuse to grant asylum or ancillary protection. The appeals against that decision were dismissed by First-tier Tribunal Judge Balloch

("the Judge") following a hearing on 10 November 2014. This is an appeal against that decision.

2. It is not necessary for me to provide significant factual detail of the claim. In summary it was asserted that the 1st Appellant had been involved for many years as an academic in writing articles that he claimed were of interest to the Iranian authorities. This continued after he was last there in 2012 and the 2nd Appellant (his wife) in 2013.
3. Deputy Upper Tribunal Judge Kamara granted permission to appeal on 8 May 2015 as it is arguable;
 1. that the FTTJ erred in disregarding the recent material said to have been produced by the Appellant,
 2. that the judge failed to adequately consider the Appellant's oral evidence,
 3. that the judge relied on a matter which was not in issue in making an adverse finding, and
 4. in remarking that the Appellant was "deliberately providing a basis for a claim to asylum in the UK," without assessing the risk on return to Iran, misdirected herself.

The hearing before me

4. Despite the rule 24 notice, Mrs Peterson conceded that the Judge had materially erred regarding ground 4 of the application regarding the sur place activities given YB (Eritrea) [2008] EWCA Civ 360. The issue of why he did it is not critical as opportunist sur place activity is not an automatic bar to asylum. In addition, the issue is not why did he write something, but what are the Iranian authorities likely to perceive he thinks and do to him as a result of that.
5. It was equally clear and was conceded that this infected ground 1 of the application as there was inadequate consideration of the documentation he had written since the 1st Appellant had last been to Iran in 2012
6. In light of that, it was clear that the decision could not stand. It was not necessary for me to hear arguments on the other grounds, although, as I stated at the hearing, the failure by her to tediously recite every word stated in the hearing or excessively long statement was not a material error of law in itself. I did not need to hear in detail from Mr Hodson although he conceded the need for greater focus in the evidence.
7. I therefore set the decision aside.
8. Both representatives agreed that the matter needed to be remitted for a de novo hearing.

Decision

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

The matter shall be remitted to the First-tier Tribunal for a de novo hearing at Bradford (as the family now live in Leeds) before a Judge other than Judge Balloch. The time estimate is 4 hours and a Farsi speaking interpreter is required.

Deputy Upper Tribunal Judge Saffer
12 April 2016