



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

Appeal Number: PA020242016

THE IMMIGRATION ACTS

**Heard at Birmingham Employment Decision Promulgated
Centre
On 23 May 2017**

On 1 June 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

**RM
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Sharif, of Fountain Solicitors

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals to the Upper Tribunal with permission against the decision and reasons statement of First-tier Tribunal Judge Carlin that was issued on 18 October 2016.

2. It is appropriate, given the nature of this appeal, that the anonymity directions made by the First-tier Tribunal is preserved and I make at the end of this decision the necessary Upper Tribunal order to do so.
3. At the outset, I reminded both representatives that permission was limited to the fourth ground and I can consider nothing else.
4. Mr Sharif reminded me that it is accepted the appellant is a Kurd from Iran. He submitted that because of the appellant's activities in Iran, the Iranian authorities would have an adverse interest in him, which means he has a well-founded fear of persecution.
5. Mr Sharif admitted that the country guideline case, SSH and HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 00308, had not been available to Judge Carlin. Nevertheless, Judge Carlin should have had regard to the earlier country guideline case, SB (risk on return - illegal exit) Iran CG [2009] UKAIT 00053. As identified in the grant of permission, Judge Carlin made no reference to either case and it was unclear whether he made any findings.
6. Mr Mills argued that the outcome of the appeal turned on the proper reading of SSH and HR. At [34], the Upper Tribunal found that being Kurdish was not sufficient of itself to establish a well-founded fear of persecution although being Kurdish was a factor that could exacerbate adverse interest from the Iranian authorities.
7. Mr Mills reminded me that Judge Carlin had made adverse credibility findings such that nothing of the appellant's account survived. Those findings had been challenged in the grounds of application but Judge Pullig did not grant permission on those grounds. Therefore, the credibility findings are preserved. On that basis, the appellant was in the same position as the appellants in SSH and HR and illegal exit would not be sufficient to entitle him to refugee protection.
8. In my discussion with Mr Sharif, he admitted that the adverse credibility findings were not disturbed. This means the appellant had failed to establish any past activities that might bring him to the adverse attention of the Iranian authorities. Mr Sharif also acknowledged that the country guideline cases establish that illegal exit is insufficient by itself, even for a Kurd, to generate a well-founded fear of persecution on return.
9. Having heard from both parties, I announced there is no legal error in the decision and reasons statement. I reserved my reasons, which I now give.
10. The fact the appellant's account is totally rejected means the only risk factors facing him on return are the issues of him being a Kurd and having left Iran illegally. On the face of the country guidance, those factors are insufficient individually or collectively to found a refugee claim. It follows that Judge Carlin's decision must be correct in law.
11. Once the grounds of application were limited by the grant of permission, the criticism made by the appellant is in effect that the judge failed to spell out the consequences of his adverse credibility findings. But there is no need for a judge to spell out such matters when the findings can lead only

to one outcome, as is the case here. The judge could assume that the appellant's solicitors would have advised him accordingly, particularly since this was not a case where the country guidance was being challenged.

12. It follows I find there is no legal error.

Decision

The decision and reasons statement of FtT Judge Carlin does not contain legal error and his decision stands.

Order regarding anonymity

I make the following order. I prohibit the parties or any other person from disclosing or publishing any matter likely to lead members of the public to identify the appellant. The appellant can be referred to as "RM".

Signed

Date

23 May 2017

Judge McCarthy
Deputy Judge of the Upper Tribunal