Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/14372/2016

THE IMMIGRATION ACTS

Heard at Bradford	**Decision & Reasons Promulgated**
On 31 October 2017	**On 23 November 2017**

Before

UPPER TRIBUNAL JUDGE LANE

Between

ZANA MUJAHEEDI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Middleton, Kirklees Law Centre
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Zana Mujaheedi, was born on 22 March 1997 and is a citizen of Iran. He arrived in the United Kingdom in June 2016 and claimed asylum. By a decision dated 13 December 2016, the Secretary of State refused the appellant asylum. The appellant appealed to the First-tier Tribunal (Judge A W Khan) which, in a decision promulgated on 28

February 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant claims that he cannot return to Iran because he is a supporter of the KDPI and had been involved in activities with that party in Iran. The judge found that the appellant's account was not credible and he attached no weight to an arrest warrant adduced by the appellant in evidence.

3. There are two grounds of appeal. First, the decision is challenged on the basis that the judge had provided insufficient reasoning regarding credibility issues. Secondly, the appellant asserts that the judge failed to consider adequately documentary evidence adduced.

4. At [12], the judge consider the appellant's detailed account and found that it was incredible. He wrote:

> [the appellant] also claimed that he was transporting food and papers to the mountain areas for the KDPI. It was on the occasion of transporting food to the KDPI in the mountains that the appellant claimed he was followed by E'ttelaat. He actually said in answer to question 108 they started flashing at a place called Kona Mishk from where to the location about 25 minutes by car and then they started shooting at a vehicle. However, the appellant managed to jump out of the car and to escape from the E'ttelaat. Considering the appellant's version of events in being followed, I find it unbelievable the security vehicle was flashing the appellant's vehicle to stop but the vehicle continued to drive on until it was shot at, apparently killing one of the persons in the car yet the appellant himself managed to escape by running off into the mountains. The appellant claimed that E'ttelaat did not follow him because of armed Kurdish activity in the area. ...

The appellant complains that the judge has not given any reasons for having found it "unbelievable" that the account may be true and accurate. The challenge is problematic. It is difficult to know what else the judge could have said than he has stated in the circumstances. The appellant claims to have been able to escape from armed Iranian agents who had stopped the vehicle in which he was travelling and who had killed one of the other passengers in the car. The judge has considered the account and did not believe that it could have occurred as described by the appellant. The evidence was of a kind which a judicial decision maker might accept as true but, equally, might reject; the "reason" for rejecting the evidence is, put simply, that the judge did not believe that the appellant could have escaped from the clutches of E'ttelaat in what are *prima facie* extraordinary circumstances. If a witness claims to have jumped out of an aircraft, fallen 10,000 feet to the ground without a parachute and survived one does not have to give "reasons" for finding that account to be incredible; it is sufficient to say that one does not believe that it happened. In the present case, the judge could have said that he did not consider it believable that the appellant would have been able to have escaped from the car which had been attacked by armed E'ttelaat agents who had killed one of the other passengers. Had he done so, such a "reason" would have added nothing to the analysis at all. He

would simply have taken a longer route to stating that, on its face, the claim was simply unbelievable.

5. The second ground of appeal challenges the judge's assessment of the documentary evidence. The appellant had produced a letter from the KDPI headquarters in Iraqi Kurdistan. The letter is dated 26 January 2017, the day before the appeal hearing. The letter was sent via the United Kingdom branch of the KDPI in London. The judge sets out the contents of the letter in some detail at [13]. The judge considers the Country Information Guidance Report which had been provided to him. At [14] the judge states that "no mention is made in the letter as to what the appellant was doing for the party [KDPI] in Iran." The judge also found that there was "no satisfactory evidence as to how the KDPI was certain that the person asking for the letter had to flee due to political activism." The judge concluded that it would be,

> reasonable to assume the party would have known about the appellant's activities but I found the letter to be purely general in nature and I cannot regard it as reliable evidence to show the appellant is a KDPI supporter. I find that it is a self-serving letter which the appellant has obtained simply to bolster a weak asylum claim.

6. I note that the Country Information and Guidance to which the judge refers deals with the verification of membership of the KDP-Iran. The 2013 Danish Refugee Council Danish Immigration Service Fact-Finding Mission deals exclusively with membership of the KDP-Iran recording (as the judge also did) that "every *member* has a written file within the headquarters which forms the basis of the description of the situation of the asylum seeker in the letter of recommendation". I observe that the letter which has been obtained by the appellant uses the word "supporter" rather than member. Without giving any detail whatever, the letter simply states that "undoubtedly [the appellant] cannot return home and … if he ever be deported to Iran he would definitely be arrested and certainly run a risk of being persecuted by the repressive agents of the Islamic regime of Iran." In my opinion, the judge was right to be sceptical regarding the evidential weight attaching to this letter. Although he does not say so in terms, the judge duly recorded the fact that the background material refers to "members" and not "supporters". Indeed, it would be absurd to expect any political organisation to keep a file in respect of every individual *supporter*. It seems to me that this is the point which the judge is seeking to make in his analysis of the letter. Mr Middleton submitted that the appellant had done everything which the Country Guidance indicated was required. However, the guidance relates to members and not supporters. Further, given that the appellant was not a member but only a supporter of the KDPI the judge is right to observe that there was no evidence at all as to how the KDPI in Iraqi Kurdistan (so described) would be able to say that the appellant would be "definitely arrested" if he returned to Iran; no basis has been provided for that assertion. The evidential weight attaching to this letter was, as the judge found, limited.

7. The judge went on to consider another document which is entitled "Verdict". The appellant claimed this was an arrest warrant. The judge at

[17] doubted that it was. The judge noted that the document stated that the appellant was to attend a Revolutionary Court "otherwise he would be arrested and would receive a heavy punishment." However, the judge noted there was "nothing further is said about a warrant for his arrest." Rather, the document "simply renounces a court verdict in the absence of the appellant."

8. I am not entirely sure what point the judge is trying to make by distinguishing between an arrest warrant and the document which he had before him which, as the judge acknowledges, indicated that the appellant's failure to attend a revolutionary court would lead to his arrest and detention. The grounds complain that the judge "provides no explanation for not accepting the document other than there was "no objective verification by an expert." I agree with Mr Middleton that the judge has become unnecessarily concerned with how exactly this document should be described; what matters is that, on its face, the document indicates the appellant would be arrested and detained should he return to Iran. However, the judge was entitled to consider the fact that no independent expert evidence had been produced to verify the document. The absence of such evidence affected the weight properly attaching to the document. It is clear also, in my opinion, that the judge has considered the document in the context of all the evidence which was put before him by the appellant. I do not find that the judge erred in law in his assessment of this document or that he has attached insufficient weight to it.

9. In the light of my above analysis, I conclude that the judge has carried out a thorough and robust assessment of the evidence. He has reached findings which were available to him. I find that the Tribunal should not interfere with his conclusion that the asylum appeal should be dismissed.

Notice of Decision

This appeal is dismissed.

No anonymity direction is made.

Signed Date 20 October 2017

Upper Tribunal Judge Lane

TO THE RESPONDENT
FEE AWARD

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

Signed Date 20 October 2017

Upper Tribunal Judge Lane