



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05547/2017

THE IMMIGRATION ACTS

Heard At: Manchester Civil Justice Centre
On: 19th June 2018

Decision and Reasons Promulgated
On: 22nd June 2018

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

RK
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Smith, Counsel instructed by Greater Manchester Law Centre
For the Respondent: Mr Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Iran born in 1986. He appeals with permission the decision of the First-tier Tribunal (Judge Chambers) dated 24th November 2017 to dismiss his protection appeal.
2. The substance of this appeal can be very shortly stated, since it is accepted by the Respondent that the decision of the First-tier Tribunal is flawed for error of law and must be set aside. The error alleged, and accepted, is that the Tribunal made two mistakes of fact in reaching its decision.
3. The first is that he was caught at the scene of his alleged illegal activities on behalf of banned Kurdish group PJAK; the second is that after being detained and

tortured he very quickly resumed his activities on behalf of that organisation. The First-tier Tribunal considered that the Appellant's actions "could not have been less reckless" and rejected the claim on the grounds that it was implausible that the Appellant would have gone back to working for PJAK "immediately" upon his release from detention.

4. As Mr Bates was prepared to concede, the Tribunal drew heavy adverse inference from facts that were wrong. The Appellant had not been arrested at the scene of his 'crime'; he had been arrested at home. The Appellant had not gone back to his activities "immediately", whilst still suffering the effects of torture. The evidence recorded in the determination itself was that the detention took place in September 2015; the Appellant did not resume his activities until October of the following year.
5. Since those adverse inferences underpinned the entire decision, Mr Bates accepted that the decision must be set aside in its entirety and the decision remade following *de novo* hearing in the First-tier Tribunal. Having had regard to the extent of the judicial fact finding required I agree.

Anonymity Order

6. This appeal concerns the Refugee Convention. Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders I therefore consider it appropriate to make an order in the following terms:

"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 his family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings"

Decisions

7. The decision of the First-tier Tribunal contains an error of law such that the decision must be set aside.
8. The decision in the appeal will be remade in the First-tier Tribunal following a further hearing.
9. There is an order for anonymity.

Upper Tribunal Judge Bruce
21st June 2018