



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12737/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 7<sup>th</sup> June 2018

Decision & Reasons Promulgated  
On 21<sup>st</sup> June 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

SH  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr T Bahja (instructed by Duncan Lewis & Co Solicitors (Harrow Office))

For the Respondent: Mr S Walker (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Appellant in relation to a judgment of the First-tier Tribunal promulgated on 22<sup>nd</sup> January 2018 following a hearing at Taylor House on 5<sup>th</sup> January 2018.

2. The judge, Judge Brewer, heard the Appellant's protection claim. The Appellant was represented by a solicitor at that hearing and the Home Office by a Presenting Officer. The Appellant is an Iranian Kurd and the basis of his claim was that prior to 2015 he did not have any difficulties in Iran and had not been involved in politics, nor was he politically active. However, in 2015 on 7<sup>th</sup> and 9<sup>th</sup> May he attended two demonstrations protesting after the suicide of a Kurdish woman who had been raped. The police were at the demonstration firing at the demonstrators and on the second occasion one of the Appellant's friends set fire to an Iranian flag. A month after that the Appellant left Iran, came to the UK and claimed asylum.
3. The main issue of substance in the case, as identified correctly by Judge Brewer, was the production by the Appellant of various documents:- two warning subpoenas, one dated 22<sup>nd</sup> June 2013 and one dated 30<sup>th</sup> August 2015, an arrest warrant dated 28<sup>th</sup> November 2015 and a sentence dated 16<sup>th</sup> November 2015. The judge had in the bundle photocopies of those documents and certified translations. The judge considered those documents in some detail from paragraph 52 of his judgment. He noted at paragraph 53 that the first warning subpoena was actually dated 2013 which was two years prior to the alleged incident. The second point that the judge makes about the first Subpoena is that it refers to the Appellant's frequent crossing of the border illegally and cooperating with disbanded revolutionary groups, neither of which the Appellant said that he had done. The Judge also noted that despite the Appellant saying he had attended two demonstrations the warning subpoena referred only to one. He noted the document was not complete, there was no date in the box for date of delivery. The judge noted with regard to the second Subpoena it was in identical terms, except that it had a date of 2015 rather than 2013 and an added allegation that the Appellant had failed to turn up after the first warning subpoena. It also was missing the date of delivery. He noted difficulties with the headings of the documents. With regard to the Sentence document he noted the number and variety of convictions, none of which related to the demonstrations.
4. The judge therefore, for numerous reasons, found those documents to be unreliable. The judge, on that basis, found that there was nothing else to lead him to find the Appellant's claim to have attended the demonstrations and be at risk to be credible and he dismissed the appeal.
5. Permission was granted by a Judge of the Upper Tribunal on the basis that she was under the impression that the originals of those documents were now available and that the Appellant was entitled to have best evidence considered by the Tribunal. However, the originals are not now available. On the Appellant's behalf Mr Bahja argued that the documents were with the Home Office but neither before the First-tier Tribunal nor in front of me has any evidence been adduced that those documents were sent to the Home Office. He referred to a number of emails talking about the translations and that they were to be submitted to the Home Office and indeed they were. There is evidence of the solicitors asking the Home Office if they wanted to see the original documents and there is evidence of the solicitors contemplating getting an authentication report. In the event they did not do so and there is no evidence that the Home Office ever said that they wanted to see those originals and there is no evidence

from Duncan Lewis saying they had sent those originals. That being the case, the judge acted quite properly in deciding the appeal on the basis of the evidence that he had in front of him.

6. Mr Bahja suggested that the judge ought to have adjourned the matter for those documents to be found however, no adjournment application was made and in my view the judge had all he needed to have. He had photocopies of the documents and translations, which he criticised for numerous reasons, some of which I have already indicated. The originals of those flawed documents would not have added anything and indeed there still remains no sign of those documents today.

### **Notice of Decision**

7. The judge reached reasoned findings on the basis of the evidence he had in front of him and I find therefore that the judgment is not tainted by any error of law and the appeal therefore to the Upper Tribunal is dismissed.
8. An anonymity direction having been made by the First-tier Tribunal, I continue it.

### **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 11<sup>th</sup> June 2018

Upper Tribunal Judge Martin

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

Signed

Date 11<sup>th</sup> June 2018

Upper Tribunal Judge Martin