Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/14380/2016**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 22 January 2018	**On 24 January 2018**

Before

UPPER TRIBUNAL JUDGE FINCH

Between

AN

(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. D. Bazani of counsel, instructed by Jein Solicitors

For the Respondent: Mr. S. Kandola, Home Office Presenting Officer

DECISION AND REASONS

BACKGROUND TO THE APPEAL

1. The Appellant was born on [ ] 1981, is a national of Iran. He fled from Iran on or around 25 October 2015 and made an illegal entry to the United Kingdom on 6 June 2015. He applied for asylum on 20 June 2015. His application was refused on 15 December 2016 and his

subsequent appeal was dismissed in a decision promulgated on 4 August 2017 by First-tier Tribunal Blake. He appealed against this decision and First-tier Tribunal Judge granted him permission to appeal on 1 November 2017. The Respondent filed a Rule 24 Response on 24 December 2017.

ERROR OF LAW HEARING

2. Both counsel for the Appellant and the Home Office Presenting Officer made oral submissions and I have referred to the content of these submissions, where relevant, in my decision below.

ERROR OF LAW DECISION

3. When considering the credibility of the account given by the Appellant, First-tier Tribunal Judge Blake failed to adopt the approach recommended by the Court of Appeal in *Karanakaran v Secretary of State for the Home Department* [2000] EWCA Civ 11, where it was held that:

> "The task of the decision-maker was to assess, to a reasonable degree of likelihood, whether the applicant's fear of persecution for a Convention reason was well-founded. It might be that there were parts of the evidence which on any standard were to be believed or not to be believed. Of other parts, the best that might be said to them was that they were more likely than not. Of other parts it might be said that there was a doubt. The need to reach a decision on whether the appellant had made his case to a reasonable degree of likelihood, arose only on the ultimate .evaluation of the case, when all the evidence and the varying degrees of belief or disbelief were being assessed".

4. In paragraph 95 of his decision, First-tier Tribunal Judge Blake began by simply stating that "having had the benefit of hearing and seeing the Appellant give his evidence I did not find him to be a reliable or credible witness". When reaching this decision he did not give any weight to the fact that the Appellant had provided a significant amount of evidence to confirm

that he had been a journalist working for two different newspapers in Iran shortly before he left that country. He merely noted that he had been no more than a photographic journalist there.

5. In paragraph 98 of his decision he also stated that there was little or no evidence in respect of the Appellant's blog. This ignored the fact that at pages 108 to 131 of his Appellant's Bundle, he had included copies of his social media pages, including his blog and Facebook page, which were largely political in nature. He also erroneously stated in paragraph 105 of his decision that the Appellant had provided no articles, no Facebook and no email evidence and in paragraph 106 he stated that the articles which the Appellant had provided were artistic [as opposed to political], which again was not correct.

6. The First-tier Tribunal Judge had recorded the medical evidence relied upon by the Appellant in paragraphs 11 to 18 of his decision. This confirmed that he was experiencing significant depression, anxiety and post traumatic stress symptoms, as well as agoraphobia and that his symptoms were serious enough to cause his GP to seek urgent treatment for him. However, the First-tier Tribunal Judge did not consider whether they may have had an adverse effect on his ability to prepare for his appeal when considering the totality of the evidence. At most, he stated in paragraph 19 that he had informed the Appellant that he had taken all of this evidence into account.

7. The First-tier Tribunal Judge did not make any findings as to whether he accepted the medical evidence or remind himself that the Appellant appeared to be a vulnerable witness and that he should be taking into account the Joint Presidential Guidance Note 2 of 2010 on Child, vulnerable adult and sensitive appellant guidance.

8. There was also a lack of reasoning in some of the conclusions reached by the First-tier Tribunal Judge in relation to the Appellant's credibility. For example, in paragraph 98 of his decision he did not particularise the inconsistencies which he said ran through the whole of the Appellant's account or explain in paragraph 99 which dates simply did not add up in respect of the calculation and timetable as to when the Appellant arrived in the United

Kingdom. Neither did he explain which dates did not match the dates on the Appellant's own documents in paragraph 100 of his decision.

9. The First-tier Tribunal Judge also failed to take into account paragraph 40 of the Appellant's witness statement, which referred to his family receiving a court summons in his name on 14 May 2016 or the fact that there was a copy of this summons at page 161 of the Appellant's Bundle. This was evidence which was capable of corroborating the Appellant's account.

10. At the hearing, the Home Office Presenting Officer accepted that the failure of refer to the copy of the summons and take into account the medical evidence did amount to errors of law.

11. As a consequence, I find that First-tier Tribunal Judge Blake did err in law in his decision.

DECISION

(1) The Appellant's appeal is allowed.

(2) The appeal is remitted to a First-tier Tribunal Judge other than First-tier Tribunal Judge Blake for a *de novo* hearing.

Nadine Finch

Signed Date 22 January 2018

Upper Tribunal Judge Finch