



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001855
First-tier Tribunal Nos:
PA/52850/2022
IA/07276/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 19 October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

Mr S A H
(ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Evans (Counsel)

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

Heard at Manchester Civil Justice Centre on 29 August 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge Abebrese, promulgated on 15th April 2023, following a hearing at Manchester Piccadilly on 13th April 2023. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted,

permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Iraq, and was born on 1st December 1989. He appealed against the refusal of his protection claim in a decision made by the Respondent dated 15th June 2022.

The Appellant's Claim

3. The essence of the Appellant's claim is that he had a secret relationship with a woman by the name of "Rookhoosh", but that when his ex-wife, Sanarya, found out he made false accusations against Sanarya and eventually divorced her on 25th June 2019. Sanarya then went back to her family and committed suicide on 15th July 2019. Her family now blame the Appellant for her suicide. The Appellant claims that the family of Rookhoosh also, who he was having an affair with, have threatened to kill him and came to his home on 25th July 2019, threatening him about five times. The Appellant now fears that Sanarya's maternal uncle and brothers would kill him if he was returned to Iraq. He also fears Rookhoosh's family, claiming that they too would kill him upon return. He bases his claim upon being a member of a particular social group and a victim of honour crimes.
4. The Respondent rejected the Appellant's claim for a number of reasons. First, he had misled the Respondent authorities about the location of his passport upon which he travelled. This led the Respondent to conclude that he would not be at risk of ill-treatment upon return. He had claimed his passport was in Iraq, but he had travelled to Turkey using his own passport, where his agent gave him a false passport for an onward journey, and took away his genuine passport. Second, during his substantive interview he informed the Respondent that he had left his passport at his home in Arabat and left Iraq using a fake passport but that such an account was inconsistent. Third, the Appellant has a CSID and a passport which he claims are in Iraq. He also had spoken to his mother a year before he completed his asylum interview. This meant that the Appellant could contact his mother and brother and ask them to send him his CSID, thus enabling him to travel.

The Judge's Findings

5. At the hearing before Judge Abebrese, the Appellant gave evidence that his relationship started in 2015, when he was single, but he could not tell his mother as she wanted him to marry Sanarya. This led him to conceal Rookhoosh's telephone number on his mobile under the name of 'Mohammed'. The Appellant claimed that, Sanarya nevertheless managed to find the phone number when he had left his telephone in the bedroom, after which she left the Appellant and went back to her family home. The Appellant's own family also disowned him after they were shown photos of himself and Rookhoosh. At the hearing before Judge Abebrese, the Respondent's representative challenged the Appellant's account on the basis that it had taken the Appellant two years for his family to find out the truth; that he was in contact with his brother when he left for Turkey so would have been aware of any reasons for him to fear his ex-wife's family and the tribe of the family of the woman he had an affair with, but which he did not reveal at the interview; and that if Sanarya's uncle had any influence as claimed, he would

have involved the authorities. The Appellant also had not produced a death certificate and the date on the gravestone of Sanarya for her birth was wrong. The photos produced had not been dated. The source for the evidence of honour killings was undocumented. Finally, the Appellant's account was not credible and he could travel back to the IKR from where he comes and where he has a family.

6. On the other hand, it was argued on behalf of the Appellant that, "The main issue in the appeal is whether the Appellant has provided a credible account and risk on return", and that "The Appellant at the screening interview was not fully aware of the threats which he faced, and that he had not in any way attempted to mislead the Respondent" (paragraph 16).
7. Against this background, the judge went on to hold that, having considered all the evidence and submissions in this appeal, the Appellant's claim was not a credible one "in relation to the core of the account provided to the Tribunal" (paragraph 20). He was not held to be credible with respect to his relationship with Rookhoosh, or that his ex-wife found out about the relationship, or that she went back to her family, or that she killed herself on 15th July 2019. The judge also did not find it credible that the Appellant's ex-wife's family and Rookhoosh's family have made threats against him. Indeed, "The Appellant in any event states that he had previously managed to make contact with his family and that they have his CSID documents", which did not suggest that his family disowned him or that he was unable to obtain his documents (paragraph 20).
8. Furthermore, the fact that Rookhoosh's telephone number "was conceded under the name of 'Mohammed' meant that it was "implausible how Rookhoosh was then identified" and that the Appellant had gone on to give "unclear evidence at the screening interview regarding the number of brothers which Sanarya has and how many of them contacted him" (paragraph 21). In fact, "the Appellant at the screening interview and the preliminary information questionnaire did not raise any issue about being in a relationship with Rookhoosh or that there was any adverse attention regarding their relationship" (paragraph 22).
9. In addition, it was "implausible that the Appellant's ex-wife uncle had a local connection as he lived in Erbil which is approximately three hours away and the Appellant lived in Arbat" (paragraph 23). In short, the Appellant had not revealed "at the earliest opportunity important information to the Respondent which she had the opportunity to and this creates inconsistency in his account" (paragraph 24). The fact was that the Appellant "through his parents is able to obtain his travel documents from his parents or other members of his family as he is in my view able to contact them" (paragraph 25). The appeal was dismissed.

Grounds of Application

10. The Grounds of Appeal suggest that the judge failed to give adequate reasoning in making his adverse credibility findings.
11. On 7th June 2023 the First-tier Tribunal granted permission to appeal on the basis that it was arguable that the judge, in making his credibility findings at paragraphs 20 to 21, gave very limited reasoning. He gave no reasons at all for rejecting the account that the Appellant's ex-wife had killed herself or that he had a relationship with Rookhoosh.

Submissions

12. At the hearing before me on 29th August 2023, Ms Evans, appearing on behalf of the Appellant, submitted that the judge made multiple findings in respect of the range of issues without giving reasons at paragraph 20. This was contrary to the guidance given in **KB & AH (credibility-structured approach) Pakistan [2017] UKUT 00491 (IAC)**, which required a structured approach. Instead, the judge had made a succession of statements on credibility without absolutely no reasoning being given behind them. In addition the reasoning given at paragraph 23 that the Appellant's ex-wife uncle could not have local connections because he lived in Erbil misunderstood the nature of the claim which was that his relationship was that of a family member to his niece, rather than whether or not he lived in Arabat or in Erbil. The judge additionally gave no reasons at all with respect to the evidence of the photographs of the Appellant's ex-wife's gravestone indicating her death by suicide. There was also the factor that the date of birth of the Appellant's ex-wife was consistent with the documents provided and the discrepancy in the date was in the trust's later document only. The judge was directed to view those documents as evidence of the consistency in dates and yet made no reference to them. There was no reference to the Appellant's divorce documents. The judge criticised the lack of clarity in relation to the Appellant's brother or brothers but the appellation is the same in Kurdish in both cases. Finally, the judge had used double negatives at paragraphs 23 and 24 so that it was not clear whether he had made findings in favour of the Appellant or against him in relation to his credibility. In short, the judge had failed to give "anxious scrutiny" to the protection claim.
13. In response, Mr Tan submitted that the judge had given ample reasons if one had regard to his determination from paragraph 20 onwards, because at paragraph 22 one sees a total rejection of the claim. He had explained, "I do not accept the explanation given by the Appellant regarding the omission to be credible as his solicitor signed the form at the end of the preliminary questionnaire sheet" (paragraph 22). This was in relation to the absence of information in the screening interview and the preliminary information questionnaire. It was agreed, submitted Mr Tan, that the core question was whether the Appellant had engaged in an extramarital affair with Rookhoosh. If the judge did not find that core claim to be credible, then everything fell by the wayside. The judge did precisely that. The total rejection of that claim meant that if the affair never took place, then the judge did not have to engage in detail with anything else.
14. In reply, Ms Evans submitted that it was not clear from the reasons that the affair did not actually take place. Reasons may have been provided at paragraph 22 but they were not provided at paragraph 20 where the judge made a series of findings without providing any reasons at all in relation to a range of issues that were presented to him. The judge appears to have decided that the core account was not reliable, in a way that was contrary to the Rule in **Tanveer Ahmed**, which required the entirety of the evidence to be taken into account before making a decision, and on that basis to have rejected the appeal. What he was required to do was to treat all the evidence in the round and then make reasoned findings.

No Error of Law

15. I am satisfied that the making of the decision by the judge did not involve the making of an error of law. My reasons are as follows. First, it is well-known that a decision maker is required to undertake a structured approach to credibility

findings, as explained in **KB and AH (credibility-structured approach) Pakistan [2017] UKUT 491 (IAC)**. That decision reminds us that the assessment of credibility is a “highly fact-sensitive affair” and that a certain degree of caution is needed in the application of plausibility, although it remains a valid indicator or factor when considering credibility (see paragraph 28). Indeed, as the Tribunal in that case made clear (drawing upon **HK v Secretary of State for the Home Department [2006] EWCA Civ 1037**), there are difficulties with the notion of “inherent probability” because much of the evidence would be referable to societies with customs and circumstances very different from those with which the fact-finding Tribunal has experience.

16. Nevertheless, although the decision of Judge Abebrese is couched in language that could have been clearer, such as for example the use of double negatives when he states that, “I am not persuaded that the Appellant’s fear of the uncle’s connections are not credible” (paragraph 23) or that, “I do not find the explanation that he informed his legal representative not to be credible” (paragraph 24), I conclude that the judge correctly considered the essence of the claim in the Appellant’s account under the various credibility indicators of sufficiency of detail; internal consistency; external consistency; and plausibility.
17. I do not consider that the judge was relying upon his own perceptions of reasonableness or that he adopted an overly restrictive approach when drawing adverse findings. The fact is that the judge rejected the core account and gave reasons for this. He explains that the Appellant’s ex-wife could not have found details of Rookhosh given that “the phone number was concealed under the name of Mohammed” and that “furthermore find it implausible how Rookhosh was then identified” and that in any event “the Appellant gave unclear evidence at the screening interview” (paragraph 21).
18. In fact, the judge was clear (at paragraph 22) that in neither the screening interview nor the preliminary information questionnaire, did the Appellant “raise any issue about being in a relationship with Rookhosh or that there was any adverse attention regarding their relationship” even though “his solicitor signed the form at the end of the preliminary questionnaire sheet” (paragraph 22).
19. In relation to the Appellant’s ex-wife’s uncle, who lived in Erbil, the Appellant had stated in the preliminary information questionnaire and in the asylum interview pages (at pages 101 to 102), “that he had no knowledge of his position” which led the judge to state that, “I am not persuaded that the Appellant’s fear of the uncle’s connections are not credible” (although a double negative is used here again). In the end, the judge was clear that the Appellant, through his parents, would be able to obtain travel documents to return back to the IKR (at paragraph 25). The judge was entitled to make the adverse findings that he did. The conclusions that he reached were fully and properly open to him on the evidence before him.

Notice of Decision

20. There is no material error of law in the judge’s decision. The determination shall stand.

Satvinder S Juss

Case No: UI-2023-001855
First-tier Tribunal Nos: PA/52850/2022
IA/07276/2022
Judge of the Upper Tribunal
Immigration and Asylum Chamber

18th October 2023