Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/06240/2014

THE IMMIGRATION ACTS

Heard at Stoke-on-Trent	**Decision & Reasons Promulgated**
On 9 May 2016	**On 27 May 2016**
Prepared 9 May 2016	

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MR KAVEH MOHAMAD PANAHI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms O E Duru, instructed by Jemek Solicitors
For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Iran, date of birth 2 April 1979, appealed against the Respondent's decision to make removal directions on 8 August 2014. The appeal against that decision came before First-tier Tribunal

Judge Devlin (the judge) who on 26 November 2014 dismissed the appeal with reference to Refugee Convention, Humanitarian Protection and Article 3 ECHR grounds and with reference to Article 8 ECHR. There has been no appeal maintained against the judge's decision [D] on the Article 8 ECHR claim nor under the Immigration Rules (the Rules) particularly 276ADE of the Rules.

2. The heart of the attack upon the judge's decision lies with a criticism that the judge had failed to give sufficient or adequate weight to expert opinion provided by a Mr Rashti who had written an authentication report in respect of the 'document', variously referred to as either a 'warrant' or a 'summons', said to be issued for the Appellant to secure his attendance on a given date; presumably contingent upon being served in time upon the Appellant. The document does not disclose what was the offence or matter that was to be addressed. Any inference that there is reference to criminality simply comes from a requirement to present himself at an executive branch of the Criminal Sentences (Revolutionary Matters) of Mahabad 'to provide an explanation'. The document does not refer any actual criminal proceedings on the face of it.

3. The judge, in admittedly very short paragraphs, addressed the Authentication Report from Mr Rashti, which set out his qualifications and experience, made [D 135 to 162] a number of criticisms of the document and/or its potential relevance at all; bearing in mind it relates to an earlier period seemingly unconnected to the alleged incidents which the Appellant feared would give rise to risk on return. The judge criticised the relevant document and its potential to be a risk to the Appellant on return to Iran.

4. Ms Duru amongst other things relied on the judge's finding that there were certain consistencies in the evidence provided by the Appellant. Consistency does not of itself establish that the contents are correct but it may go to the reliability and weight of recollection or the contemporary

nature of the documentation. Be that as it may ultimately Ms Duru was driven to argue that a different view should have been taken by the judge of that evidence. In the light of the decision in **ER** [2004] QB 1044 C.A. it seemed to me that her criticisms were essentially seeking to re-argue the merits of the claim to be at risk on return and were a bare disagreement with the judge's view upon that expert evidence.

5. The judge was of course not bound by the opinion of an expert but when differing from the expert needed to give reasons; which he did. I conclude on a fair reading of the judge's decision that he did give sufficient and adequate reasons why he rejected the document (warrant) for what it was claimed to be. In the circumstances the judge was fully entitled to reach the view on risk on return, whatever the Appellant may later have been claiming in relation to his involvement in anti-government activity, involuntary or otherwise, with PJAK or otherwise involved in crime such as smuggling: To do so did not disclose any error of law.

6. The second issue on risk on return was the straight return of a failed asylum seeker to Iran and whether that had been properly considered in the light of the country guidance then in being in **BA** [2011] UKUT 36 CG and in particular **SB** [2009] UKAIT 00053 CG.

7. It was accepted by Ms Duru, and therefore the argument was cut short, that on a return as a failed asylum seeker only the Appellant was not at risk of harm as claimed. Thus, on the face of it, absent of positive findings that the Appellant had been involved in criminality or politically related activities there was no other basis on which he faced a risk on return. In the light of the evidence Ms Duru confirmed that the Appellant had no previous convictions, there was no criminal record or anything outstanding against him. She said there was no knowledge exactly as to what were the nature of the proceedings, if they truly exist, back in 2011 and 2012. There was no evidence of political activity of a kind likely to give rise to an adverse interest. There was no current evidence of a

continuing interest in the Appellant. Similarly, there was no evidence of his being involved in opposition activities against the ruling regime in Iran either before or *sur place*. In those circumstances it is clear that that issue of a straight return was not going to give rise to any particular interest in the Appellant.

8. At the start of the hearing, in the light of the possibility that the cases of **BA** or **SB** may be reviewed and their weight in country guidance terms reassessed, which remains unknown, I raised the point with Ms Duru. She took instructions and indicated that the Appellant wished the hearing to proceed and so no application for an adjournment was made.

9. I find there is no substance in the grounds of appeal raised. The Original Tribunal made no error of law.

Decision

The Original Tribunal's decision stands.

Anonymity Order.

No anonymity order was requested and none is necessary.

Signed Date 24 May 2016

Deputy Upper Tribunal Judge Davey